

2006 No. 131

INCOME TAX

The Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006

<i>Made</i>	- - - -	<i>25th January 2006</i>
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<i>Coming into force</i>	- -	<i>6th April 2006</i>

CONTENTS

Preliminary

1. Citation and commencement
2. Interpretation

Reliance on provisions of the Finance Act 2004

3. Reliance on paragraph 7 of Schedule 36 (lifetime allowance enhancement: “primary protection”)
4. Reliance on paragraph 12 of Schedule 36 (lifetime allowances: “enhanced protection”)
5. Reliance on paragraph 18 of Schedule 36 (lifetime allowance enhancement: pre-commencement pension credits)
6. Reliance on section 220 (lifetime allowance enhancement: registration of pension credits)
7. Reliance on section 221 (lifetime allowance enhancement: relevant overseas individuals)
8. Reliance on section 224 (lifetime allowance enhancement: transfer from recognised overseas pension scheme)

Loss of enhanced protection

9. Loss of enhanced protection

Notifications

10. Form of notification
11. Preservation of documents
12. Late submission of notification

Procedure on giving of notifications

13. Procedure on giving of notification to the Revenue and Customs
14. Appeal against refusal to issue certificate

Certificates

15. General
16. Aggregate certificates
17. Incorrect information given in connection with notification
18. Incorrect information given in certificate
19. Further supply of information given in certificate

Compliance

20. Review of notification after certificate issued
21. Review of notification after receipt of further information
22. Reviews of notifications: procedure to be followed
23. Appeals against notices under regulation 22
24. Revocation or amendment of certificate

Supplementary

25. Special classes of individuals
26. Personal representatives

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 220(5), 221(6), 224(9), 251(1) and (6) and 256 of, and paragraphs 7(1)(b), 12(1) and 18(6) of Schedule 36 to, the Finance Act 2004^(a) and section 113(1) of the Taxes Management Act 1970^(b), and now exercisable by them^(c), make the following Regulations:

Preliminary

Citation and commencement

1. These Regulations may be cited as the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006 and shall come into force on 6th April 2006.

Interpretation

2.—(1) In these Regulations—

“the closing date” is to be read in accordance with regulation 3(4), 4(4), 5(4), 6(4), 7(4) or 8(4) as the case may require;

“notification” is to be read in accordance with regulation 3(3), 4(3), 5(3), 6(3), 7(3) or 8(3) as the case may require;

(a) 2004 c. 12. Section 251(6) of the Finance Act 2004 is recited for the meaning given to the word “prescribed”.

(b) 1970 c. 9.

(c) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

“the Revenue and Customs” means Her Majesty’s Revenue and Customs.

(2) In these Regulations references to sections, without more, are references to sections of the Finance Act 2004, and references to provisions of Schedule 36 are references to provisions of Schedule 36 to that Act.

(3) The expressions defined or otherwise explained in the list in section 280(2)(a) have the same definitions or explanations in these Regulations as in Part 4 of the Finance Act 2004.

Reliance on provisions of the Finance Act 2004

Reliance on paragraph 7 of Schedule 36 (lifetime allowance enhancement: “primary protection”)

3.—(1) This regulation applies if the amount of the relevant pre-commencement pension rights of an individual (determined in accordance with paragraph 7(5) of Schedule 36) exceeds £1,500,000.

(2) The individual may give notice of intention to rely on paragraph 7 of Schedule 36 (“paragraph 7”).

(3) If the individual intends to rely on paragraph 7, the individual must give a notification to the Revenue and Customs on or before the closing date.

(4) For the purposes of this regulation the closing date is 5th April 2009.

(5) Paragraph (6) applies if—

- (a) the individual gives the notification to the Revenue and Customs, and
- (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.

(6) The individual may rely on paragraph 7 during the period beginning on 6th April 2006 and ending on the day on which the Revenue and Customs—

- (a) revoke the certificate, or
- (b) issue an amended certificate to the individual.

(7) Paragraph (8) applies if the Revenue and Customs—

- (a) issue a certificate to which paragraph (6) applies to the individual, and
- (b) later issue an amended certificate (“the subsequent certificate”) to the individual.

(8) The individual may rely on paragraph 7 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—

- (a) revoke the subsequent certificate, or
- (b) issue an amended certificate to the individual.

(9) The day so specified must not be earlier than 6th April 2006.

Reliance on paragraph 12 of Schedule 36 (lifetime allowances: “enhanced protection”)

4.—(1) This regulation applies in the case of an individual to whom paragraph 12(1) of Schedule 36 has applied at all times on and after 6th April 2006.

(2) The individual may give notice of intention to rely on paragraph 12 of Schedule 36 (“paragraph 12”)(b).

(a) Section 280(2) was amended by paragraphs 10, 17 and 33 of Schedule 10 to the Finance Act 2005 (c. 7) with effect from 6th April 2006.

(b) Paragraph 12 was amended by sub-paragraphs (3) to (6) of paragraph 53 of Schedule 10 to the Finance Act 2005 with effect from 6th April 2006.

- (3) If the individual intends to rely on paragraph 12, the individual must give a notification to the Revenue and Customs on or before the closing date.
- (4) For the purposes of this regulation the closing date is 5th April 2009.
- (5) Paragraph (6) applies if—
- (a) the individual gives the notification to the Revenue and Customs, and
 - (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.
- (6) The individual may rely on paragraph 12 during the period beginning on 6th April 2006 and ending on the day on which the Revenue and Customs—
- (a) revoke the certificate,
 - (b) issue an amended certificate to the individual, or
 - (c) receive notice, given by the individual, that the individual no longer wishes to rely on paragraph 12.
- (7) Paragraph (8) applies if the Revenue and Customs—
- (a) issue a certificate to which paragraph (6) applies to the individual, and
 - (b) later issue an amended certificate (“the subsequent certificate”) to the individual.
- (8) The individual may rely on paragraph 12 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—
- (a) revoke the subsequent certificate,
 - (b) issue an amended certificate to the individual, or
 - (c) receive notice, given by the individual, that the individual no longer wishes to rely on paragraph 12.
- (9) The day so specified must not be earlier than 6th April 2006.

Reliance on paragraph 18 of Schedule 36 (lifetime allowance enhancement: pre-commencement pension credits)

- 5.—**(1) This regulation applies if a benefit crystallisation event occurs in relation to an individual in the circumstances specified in paragraph 18(1) of Schedule 36.
- (2) The individual may give notice of intention to rely on paragraph 18 of Schedule 36 (“paragraph 18”).
- (3) If the individual intends to rely on paragraph 18, the individual must give a notification to the Revenue and Customs on or before the closing date.
- (4) For the purposes of this regulation the closing date is 5th April 2009.
- (5) Paragraph (6) applies if—
- (a) the individual gives the notification to the Revenue and Customs, and
 - (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.
- (6) The individual may rely on paragraph 18 during the period beginning on 6th April 2006 and ending on the day on which the Revenue and Customs—
- (a) revoke the certificate, or
 - (b) issue an amended certificate to the individual.
- (7) Paragraph (8) applies if the Revenue and Customs—
- (a) issue a certificate to which paragraph (6) applies to the individual, and
 - (b) later issue an amended certificate (“the subsequent certificate”) to the individual.
- (8) The individual may rely on paragraph 18 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—

- (a) revoke the subsequent certificate, or
 - (b) issue an amended certificate to the individual.
- (9) The day so specified must not be earlier than 6th April 2006.

Reliance on section 220 (lifetime allowance enhancement: registration of pension credits)

6.—(1) This regulation applies if an individual acquires rights under a registered pension scheme in the circumstances specified in section 220(1).

(2) The individual may give notice of intention to rely on section 220(a).

(3) If the individual intends to rely on section 220, the individual must give a notification to the Revenue and Customs on or before the closing date.

(4) For the purposes of this regulation use the rules in this paragraph to find the closing date.

First rule: Find the 31st January following the tax year in which the pension sharing order or provision takes effect.

Second rule: Find the 31st January five years after that.

The date so found is the closing date.

(5) Paragraph (6) applies if—

- (a) the individual gives the notification to the Revenue and Customs, and
- (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.

(6) The individual may rely on section 220 during the period beginning on the day on which the pension sharing order or provision takes effect and ending on the day on which the Revenue and Customs—

- (a) revoke the certificate, or
- (b) issue an amended certificate to the individual.

(7) Paragraph (8) applies if the Revenue and Customs—

- (a) issue a certificate to which paragraph (6) applies to the individual, and
- (b) later issue an amended certificate (“the subsequent certificate”) to the individual.

(8) The individual may rely on section 220 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—

- (a) revoke the subsequent certificate, or
- (b) issue an amended certificate to the individual.

Reliance on section 221 (lifetime allowance enhancement: relevant overseas individuals)

7.—(1) This regulation applies if, at any time on or after 6th April 2006, an individual is a relevant overseas individual during any part of a period that is the active membership period in relation to an arrangement relating to the individual.

(2) The individual may give notice of intention to rely on section 221.

(3) If the individual intends to rely on section 221, the individual must give a notification to the Revenue and Customs on or before the closing date.

(4) For the purposes of this regulation use the rules in this paragraph to find the closing date.

First rule: Find the 31st January following the tax year in which the accrual period ends (see paragraph (10)).

Second rule: Find the 31st January five years after that.

The date so found is the closing date.

(a) Section 220 was amended by paragraph 45 of Schedule 10 to the Finance Act 2005 with effect from 6th April 2006.

- (5) Paragraph (6) applies if—
- (a) the individual gives the notification to the Revenue and Customs, and
 - (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.
- (6) The individual may rely on section 221 during the period beginning on the accrual day (see paragraph (10)) and ending on the day on which the Revenue and Customs—
- (a) revoke the certificate, or
 - (b) issue an amended certificate to the individual.
- (7) Paragraph (8) applies if the Revenue and Customs—
- (a) issue a certificate to which paragraph (6) applies to the individual, and
 - (b) later issue an amended certificate (“the subsequent certificate”) to the individual.
- (8) The individual may rely on section 221 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—
- (a) revoke the subsequent certificate, or
 - (b) issue an amended certificate to the individual.
- (9) The day so specified must not be earlier than the accrual day.
- (10) For the purposes of this regulation—
- (a) the accrual period ends—
 - (i) when the individual ceases to be a relevant overseas individual,
 - (ii) immediately before a benefit crystallisation event occurring in relation to the arrangement relating to the individual, or
 - (iii) when benefits cease to accrue to or in respect of the individual under the arrangement,
 whichever is the earliest; and
 - (b) “the accrual day” is the day on which the accrual period ends.

Reliance on section 224 (lifetime allowance enhancement: transfer from recognised overseas pension scheme)

8.—(1) This regulation applies if, in relation to an individual, there is a recognised overseas scheme transfer in the circumstances specified in section 224(1).

(2) The individual may give notice of intention to rely on section 224.

(3) If the individual intends to rely on section 224, the individual must give a notification to the Revenue and Customs on or before the closing date.

(4) For the purposes of this regulation use the rules in this paragraph to find the closing date.

First rule: Find the 31st January following the tax year in which the recognised overseas scheme transfer takes place.

Second rule: Find the 31st January five years after that.

The date so found is the closing date.

(5) Paragraph (6) applies if—

- (a) the individual gives the notification to the Revenue and Customs, and
- (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.

(6) The individual may rely on section 224 during the period beginning on the day on which the recognised overseas scheme transfer takes place and ending on the day on which the Revenue and Customs—

- (a) revoke the certificate, or

- (b) issue an amended certificate to the individual.
- (7) Paragraph (8) applies if the Revenue and Customs—
 - (a) issue a certificate to which paragraph (6) applies to the individual, and
 - (b) later issue an amended certificate (“the subsequent certificate”) to the individual.
- (8) The individual may rely on section 224 during the period beginning on the day specified on the subsequent certificate and ending on the day on which the Revenue and Customs—
 - (a) revoke the subsequent certificate, or
 - (b) issue an amended certificate to the individual.

Loss of enhanced protection

Loss of enhanced protection

- 9.**—(1) This regulation applies if conditions A to F are met.
- (2) Condition A is that an individual has one or more relevant existing arrangements (within the meaning given by paragraph 12(4) of Schedule 36).
- (3) Condition B is that the lump sum condition specified in paragraph 24(2) of Schedule 36 is met in relation to the individual.
- (4) Condition C is that the first notice requirement condition specified in paragraph 24(5) of Schedule 36 is not met in relation to the individual.
- (5) Condition D is that the second notice requirement condition specified in paragraph 24(6) of Schedule 36 is met in relation to the individual.
- (6) Condition E is that the individual has a certificate issued under regulation 4 on which the individual may rely.
- (7) Condition F is that paragraph 12 of Schedule 36 has ceased to apply to the individual.
- (8) Paragraph 31 of Schedule 36(a) applies in relation to the individual and to a registered pension scheme which is a protected pension scheme.
- (9) In paragraph (8) “protected pension scheme” has the meaning given by paragraph 31 of Schedule 36.

Notifications

Form of notification

- 10.**—(1) A notification must be in a form prescribed by the Commissioners for Her Majesty’s Revenue and Customs.
- (2) The individual must sign and date the notification.

Preservation of documents

- 11.**—(1) This regulation applies if—
- (a) an individual gives a notification to the Revenue and Customs, and
 - (b) the Revenue and Customs issue a certificate to the individual in response to the giving of the notification.

(a) Paragraph 31 of Schedule 36 was amended by paragraph 55(6) of the Finance Act 2005 with effect from 6th April 2006.

(2) The individual must preserve all documents relating to the information given in the notification for a period of six years beginning with the day on which the individual gives the notification to the Revenue and Customs.

Late submission of notification

12.—(1) This regulation applies if an individual—

- (a) gives a notification to the Revenue and Customs after the closing date,
- (b) had a reasonable excuse for not giving the notification on or before the closing date, and
- (c) gives the notification without unreasonable delay after the reasonable excuse ceased.

(2) If the Revenue and Customs are satisfied that paragraph (1) applies, they must consider the information provided in the notification.

(3) If there is a dispute as to whether paragraph (1) applies, the individual may require the Revenue and Customs to give notice of their decision to refuse to consider the information provided in the notification.

(4) If the Revenue and Customs gives notice of their decision to refuse to consider the information provided in the notification, the individual may appeal to the Commissioners.

(5) The appeal is to the General Commissioners, except that the individual may elect (in accordance with section 46(1) of the Taxes Management Act 1970(a)) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(6) The notice of appeal must be given to the Revenue and Customs within 30 days after the day on which notice of their decision is given to the individual.

(7) On an appeal, the Commissioners shall determine whether the individual gave the notification to the Revenue and Customs in the circumstances specified in paragraph (1).

(8) If the Commissioners allow the appeal, they shall direct the Revenue and Customs to consider the information provided in the notification.

Procedure on giving of notifications

Procedure on giving of notification to the Revenue and Customs

13.—(1) If an individual gives a notification to the Revenue and Customs, and there are no obvious errors or omissions in the notification (whether errors of principle, arithmetical mistakes or otherwise), the Revenue and Customs must issue a certificate to the individual.

(2) If an individual gives a notification to the Revenue and Customs, and there are obvious errors or omissions in the notification (whether errors of principle, arithmetical mistakes or otherwise), the Revenue and Customs must return the notification to the individual.

Appeal against refusal to issue certificate

14.—(1) This regulation applies if there is a dispute as to whether the Revenue and Customs are entitled to take the view that there are obvious errors or omissions in the notification (whether errors of principle, arithmetical mistakes or otherwise).

(2) The individual may require the Revenue and Customs to give notice of their decision to refuse to issue a certificate.

(3) If the Revenue and Customs give notice of their decision to refuse to issue a certificate, the individual may appeal to the Commissioners.

(a) 1970 c. 9. There are amendments to section 46(1) not relevant to these Regulations.

(4) The appeal is to the General Commissioners, except that the individual may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(5) The notice of appeal must be given to the Revenue and Customs within 30 days after the day on which notice of their decision is given to the individual.

(6) On an appeal, the Commissioners shall determine whether the Revenue and Customs were entitled to take the view that there were obvious errors or omissions in the notification (whether errors of principle, arithmetical mistakes or otherwise).

(7) If the Commissioners allow the appeal, they may direct the Revenue and Customs to issue a certificate to the individual with effect from a date specified by the Commissioners.

Certificates

General

15.—(1) A certificate must be in a form prescribed by the Commissioners for Her Majesty's Revenue and Customs.

(2) A certificate must have a unique reference number.

(3) An individual to whom a certificate is issued must preserve the certificate until no further benefit crystallisation event can occur.

Aggregate certificates

16.—(1) This regulation applies if—

- (a) an individual is a relevant overseas individual during any part of a period that is the active membership period in relation to an arrangement relating to an individual, and
- (b) condition A, B or C is met.

(2) Condition A is that—

- (a) the individual has given a notification under regulation 7 to the Revenue and Customs in relation to a part of the active membership period, and
- (b) the individual gives a further notification under regulation 7 to the Revenue and Customs in relation to a further part of the same active membership period.

(3) Condition B is that—

- (a) the Revenue and Customs have issued a certificate to an individual in response to a notification under regulation 7 given by the individual in relation to a part of the active membership period, and
- (b) the individual gives a further notification under regulation 7 to the Revenue and Customs in relation to a further part of the same active membership period.

(4) Condition C is that—

- (a) the Revenue and Customs have issued a certificate to an individual in response to a notification under regulation 7 given by the individual in relation to a part of the active membership period, and
- (b) the Revenue and Customs issue a further certificate to the individual in response to a further notification under regulation 7 given by the individual in relation to a further part of the same active membership period.

(5) The individual may require the Revenue and Customs to issue a single certificate (an “aggregate certificate”) to the individual.

(6) An aggregate certificate supersedes the certificates mentioned in paragraphs (3)(a) and (4).

(7) If the Revenue and Customs issue an aggregate certificate to an individual, paragraphs (6) to (10) of regulation 7 apply as if the aggregate certificate were the certificate referred to in paragraph (5)(b) of that regulation.

(8) Any notification mentioned in this regulation must be given on or before the closing date; and regulation 7 applies to find the closing date for a notification mentioned in this regulation in the same way as it applies to find the closing date for a notification given under that regulation.

Incorrect information given in connection with notification

17.—(1) This regulation applies if—

- (a) after the giving of a notification, the Revenue and Customs have issued a certificate (“the first certificate”) to an individual, and
- (b) either condition A or condition B is met.

(2) Condition A is that the individual informs the Revenue and Customs that information given in the notification was incorrect or has become incorrect.

(3) Condition B is that the individual informs the Revenue and Customs that information given in connection with the notification was incorrect or has become incorrect.

(4) The Revenue and Customs may revoke the first certificate and issue an amended certificate to the individual.

(5) The amended certificate supersedes the first certificate.

(6) If an individual realises that any information given in the notification, or given in connection with the notification, was incorrect or has become incorrect, the individual must inform the Revenue and Customs without undue delay.

(7) If condition A is met, the individual must inform the Revenue and Customs in a form prescribed by the Commissioners for Her Majesty’s Revenue and Customs.

Incorrect information given in certificate

18.—(1) This regulation applies if—

- (a) the Revenue and Customs have issued a certificate (“the first certificate”) to an individual, and
- (b) the individual informs the Revenue and Customs that information given in the certificate was incorrect or has become incorrect.

(2) The Revenue and Customs may—

- (a) revoke the first certificate,
- (b) revoke the first certificate and issue an amended certificate to the individual, or
- (c) issue an additional certificate to the individual.

(3) The amended certificate supersedes the first certificate.

(4) This regulation is subject to regulation 16.

(5) If an individual realises that any information given in the certificate was incorrect or has become incorrect, the individual must inform the Revenue and Customs without undue delay.

Further supply of information given in certificate

19.—(1) This regulation applies if, after the Revenue and Customs have issued a certificate to an individual, the individual no longer possesses information given in the certificate.

(2) The individual may require the Revenue and Customs to give the information to the individual.

Compliance

Review of notification after certificate issued

- 20.**—(1) This regulation applies if—
- (a) an individual has given a notification to the Revenue and Customs, and
 - (b) the Revenue and Customs have issued a certificate to the individual in response to the giving of the notification.
- (2) The Revenue and Customs may review any information given—
- (a) in the notification, or
 - (b) in connection with the notification.
- (3) The Revenue and Customs may begin a review under this regulation at any time within a period of twelve months beginning with the day on which the notification was given to them.
- (4) The procedure to be followed on the review is set out in regulation 22.

Review of notification after receipt of further information

- 21.**—(1) This regulation applies if—
- (a) an individual has given a notification to the Revenue and Customs,
 - (b) the Revenue and Customs have issued a certificate to the individual in response to the giving of the notification, and
 - (c) after the certificate has been issued, the Revenue and Customs have reason to believe that information given in the notification, given in connection with the notification, or given in the certificate, either was incorrect or has become incorrect.
- (2) The Revenue and Customs may review any information given in the notification, in connection with the notification, or in the certificate.
- (3) The Revenue and Customs may begin a review under this regulation at any time.
- (4) The procedure to be followed on the review is set out in regulation 22.

Reviews of notifications: procedure to be followed

- 22.**—(1) This regulation applies if the Revenue and Customs decide to begin a review under regulation 20 or 21.
- (2) The Revenue and Customs must give notice to the individual requiring the individual to provide any information, particulars and documents specified in the notice which the Revenue and Customs may reasonably require.
- (3) A notice under this regulation must specify the period within which it is to be complied with; and that period may not end earlier than the period of 30 days beginning with the day on which the notice is given.
- (4) An individual may comply with a notice under this regulation requiring the production of a document by producing a copy of the document.
- (5) But where an individual produces a copy of a document in compliance with a notice under this regulation, the Revenue and Customs may by notice require the production of the original for inspection within a period specified in the notice; and that period may not end earlier than the period of 30 days beginning with the day on which the notice is given.
- (6) The Revenue and Customs may take copies of, or make extracts from, any document produced in compliance with a notice under this section.
- (7) A notice under this section does not require an individual—
- (a) to produce or make available for inspection any document, or
 - (b) to provide any particulars,

relating to any pending appeal by the individual relating to tax.

Appeals against notices under regulation 22

23. Section 253 (appeal against notices) applies to a notice under regulation 22 as it applies to a notice under section 252(1).

Revocation or amendment of certificate

- 24.—**(1) The Revenue and Customs may revoke or amend a certificate at any time if—
- (a) after the certificate has been issued, the Revenue and Customs have reason to believe that any information given in the notification, given in connection with the notification, or given in the certificate, either was incorrect or has become incorrect, or
 - (b) after notice has been given to an individual under regulation 22, the individual does not reply to the notice within the time specified in the notice.
- (2) If the Revenue and Customs revoke or amend a certificate, they must give notice to the individual of the revocation or amendment.
- (3) The individual may appeal to the Commissioners against the revocation or amendment of the certificate.
- (4) The appeal is to the General Commissioners, except that the individual may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) The notice of appeal must be given to the Revenue and Customs within 30 days after the day on which notice of the revocation or amendment is given to the individual.
- (6) On an appeal, the Commissioners shall determine whether the Revenue and Customs revoked or amended the certificate in the circumstances specified in paragraph (1).
- (7) If the Commissioners allow the appeal, they may direct the Revenue and Customs to issue a certificate to the individual with effect from a date specified by the Commissioners.
- (8) If the Revenue and Customs revoke a certificate and, on appeal, the Commissioners determine that the certificate should have been amended, the Commissioners shall order that the certificate shall be amended in such terms as the Commissioners may specify.
- (9) If the Revenue and Customs amend a certificate and, on appeal, the Commissioners determine that the certificate should have been amended in other terms, the Commissioners shall order that the certificate shall be amended in such terms as the Commissioners may specify.

Supplementary

Special classes of individuals

- 25.—**(1) If an individual is a person who is incapable, by reason of mental disorder, of managing and administering his property and affairs, anything under these Regulations which could have been done by the individual may be done—
- (a) in England and Wales or Northern Ireland, by the individual's attorney or receiver, or the person managing and administering the individual's property and affairs,
 - (b) in Scotland, by the individual's guardian within the meaning of the Adults with Incapacity (Scotland) Act 2000(a), and
 - (c) in a country or territory outside the United Kingdom, by a person authorised by a Court having jurisdiction, in that country or territory, to regulate the property and affairs of an individual to whom this paragraph applies.

(a) 2000 asp 4.

(2) If an individual is a person who is suffering from a physical disability, by reason of which that person has difficulty executing documents in respect of the management and administration of his property and affairs, anything under these Regulations which could have been done by the individual may be done—

- (a) in the United Kingdom, by a person having a power of attorney in relation to the individual's property and affairs, and
- (b) in a country or territory outside the United Kingdom, by a person authorised, under the laws of that country or territory, to execute documents in relation to the individual's property and affairs.

Personal representatives

26. If an individual dies, anything under these Regulations which could have been done by the individual may be done by the individual's personal representatives.

Paul Gray
Mike Eland

25th January 2006

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 4 of the Finance Act 2004 deals with pension schemes.

The pension schemes legislation includes provision that an individual has a lifetime allowance on the amount of pension savings that may benefit from tax relief. An individual's lifetime allowance is usually the standard lifetime allowance: but the legislation also contains provisions relating to an enhanced lifetime allowance. The enactments providing for an enhanced lifetime allowance specify that the enactment in question only applies if notice of intention to rely on it is given in accordance with regulations.

The pension schemes legislation also includes provision for a charge to income tax, to be known as the lifetime allowance charge. But paragraph 12 of Schedule 36 to the Finance Act 2004 provides, in certain circumstances, that there is no liability to the lifetime allowance charge: but only if notice of intention to rely on the paragraph is given in accordance with regulations.

These Regulations contain provisions which enable an individual to rely on the enactments providing for an enhanced lifetime allowance and on paragraph 12 of Schedule 36 to the Finance Act 2004. The Regulations also contain additional provisions of an administrative nature.

There are two preliminary regulations. Regulation 1 provides for citation and commencement and regulation 2 for interpretation.

The next group of regulations (regulations 3 to 8) make provision to enable an individual to rely on the particular enactments which provide for an enhanced lifetime allowance or (in the case of regulation 4) on paragraph 12 of Schedule 36 to the Finance Act 2004. Each of these regulations provides for the same general procedure to be followed. An individual who wishes to rely on the relevant enactment must give a notification to the Revenue and Customs on or before the closing date (as defined). If the Revenue and Customs issue a certificate to the individual in response to the giving of the notification, the individual may rely on the relevant enactment until the certificate is revoked, or until an amended certificate is issued. The individual may then rely, to the same extent, on the amended certificate. In the case of regulation 4, notice may be given to the Revenue and Customs that the individual no longer wishes to rely on the certificate.

Regulation 9 applies if an individual ceases to have the benefit of paragraph 12 of Schedule 36 to the Finance Act 2004, and operates to protect the individual from suffering disproportionate loss.

These Regulations then make additional provision of an administrative nature.

The next group of regulations makes further provision in connection with notifications. Regulation 10 deals with the form of notifications; and regulation 11 provides that an individual must preserve documents relating to the information given in the notification. Regulation 12 deals with the case where an individual gives a notification to the Revenue and Customs after the closing date, but had a reasonable excuse for not giving the notification before the closing date, and gives the notification without undue delay after the reasonable excuse ceased.

The procedure to be followed on the giving of a notification is dealt with in regulations 13 and 14. Regulation 13 provides that if the Revenue and Customs do not take any objection to the information provided in the notification, they must issue a certificate to the individual. If the Revenue and Customs take an objection, they must return the notification to the individual. Regulation 14 deals with the case where there is a dispute as to whether the Revenue and Customs are entitled to take an objection to the information provided in the notification. The individual may appeal to Commissioners.

The next group of regulations contains provisions relating to certificates. Regulation 15 contains general provisions. Regulation 16 permits an individual, in certain circumstances, to require information contained in two notifications or certificates to be combined in a single certificate (an "aggregate certificate"). Regulation 17 provides for the case where incorrect information is given in the notification, or in connection with the notification, and regulation 18 for the case where

incorrect information is given in the certificate. Regulation 19 provides that an individual may require the Revenue and Customs to provide information which the individual no longer possesses.

The next group of regulations contains provisions relating to compliance. Where an individual has given a notification to the Revenue and Customs and the Revenue and Customs have issued a certificate to the individual, then, in certain circumstances, the Revenue and Customs may review the information given. Regulation 20 provides that the Revenue and Customs may begin a review of information given in the notification, or in connection with the notification, at any time within the year beginning with the day on which the notification was given. Regulation 21 provides that the Revenue and Customs may begin a review at any time if the Revenue and Customs have reason to believe that the information given in the notification, in connection with the notification, or in the certificate, either was incorrect or has become incorrect. Regulation 22 deals with the procedure to be followed on reviews. The Revenue and Customs must give notice to the individual requiring the production of information and documents; and the individual may appeal against the notice (regulation 23). Regulation 24 provides that the Revenue and Customs may revoke or amend a certificate in certain circumstances. The Revenue and Customs must give notice to the individual, who may appeal to Commissioners.

The final regulations are supplementary. Regulation 25 makes special provision for persons incapable, by reason of mental disorder, of managing and administering their property and affairs, and for persons suffering from physical disabilities. Regulation 26 provides that if an individual dies, then anything under these Regulations which could have been done by the individual may be done by the individual's personal representatives.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8 April 2004, and is available on HM Revenue & Customs website at www.hmrc.gov.uk/ria/simplifying-pensions.pdf or (for hard copies) by writing to the Ministerial Correspondence Unit, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG 2 1BB.

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