

**EXPLANATORY MEMORANDUM TO**  
**THE REGISTERED PENSION SCHEMES (ENHANCED LIFETIME**  
**ALLOWANCE) (AMENDMENT) REGULATIONS 2006**

**2006 No. 3261**

1. This Explanatory Memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This Memorandum contains information for the Select Committee on Statutory Instruments.

- 2. Description**

These Regulations amend the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006 (S.I. 2006/131) ("the principal Regulations"). They are made in consequence of the income tax provisions relating to pensions and pension contributions contained in paragraphs 34 to 38 of Schedule 23 to the Finance Act 2006. These paragraphs amended Schedule 36 to the Finance Act 2004, which contains Transitional Provisions relating to the introduction of the new taxation regime for pension schemes contained in Part 4 of the Finance Act 2004.

- 3. Matters of special interest to the Select Committee on Statutory Instruments**

None.

- 4. Legislative Background**

4.1. This Instrument is made by the Commissioners for Her Majesty's Revenue and Customs.

4.2. The new simplification tax regime for pension savings came into force on 6 April 2006. Under the new regime, the legislation includes provisions that an individual has a lifetime allowance on the amount of pension savings that may benefit from tax relief. The principal Regulations enabled individuals to rely on transitional provisions for an enhanced lifetime allowance.

4.3. Amendments in the Finance Act 2006 extended the benefits transitionally protected from the lifetime allowance charge to include lump sum death benefits that would have been payable immediately before 6 April 2006 if the member had died at that time. These Regulations set up an administration process for individuals to claim the extended lifetime allowance relief.

- 5 Extent**

These Regulations apply throughout the United Kingdom.

## **6 European Convention on Human Rights**

These Regulations are subject to annulment and do not amend primary legislation. Accordingly, no statement of compatibility with the European Convention on Human Rights is required.

## **7. Policy Background**

- 7.1. From 6<sup>th</sup> April 2006, a new unified pensions tax regime replaced the numerous existing regimes for approved and unapproved pension schemes. The new regime contains two key controls on tax relief for pension savings: a lifetime allowance and an annual allowance. These controls replaced the plethora of controls previously in existence.
- 7.2. An individual's lifetime allowance is usually the standard lifetime allowance; but the legislation allows for individuals to apply for their lifetime allowance to be enhanced. The principal Regulations contain the provisions and administrative processes that enable an individual to apply for an enhanced lifetime allowance.
- 7.3. The right to receive a lump sum death benefit is not generally considered to be an asset that has value; and, consequently, was not taken into account in determining the value of the sums and assets held for the purposes of the pension scheme in order to determine the amount by which an individual could apply for their lifetime allowance to be enhanced. This state of affairs could mean that if lump sum death benefits were actually paid, they could be subject to the lifetime allowance charges even if the amount of lump sum death benefits paid was no greater than the amount that would have been payable on 5 April 2006. The Finance Act 2006 amended the Finance Act 2004 to ensure that lump sum death benefits paid by a pension scheme were also eligible for transitional relief from lifetime allowance charges in the same way as other authorised pension and lump sum benefits.
- 7.4. These amending Regulations insert the administration process for individuals to claim the enhanced lifetime allowance relief taking account of death benefits into the principal Regulations. The instrument was published in draft for consultation on HM Revenue & Customs website. The Regulations reflect that consultation process.
- 7.5. HM Revenue & Customs will be announcing this Instrument on its website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and including guidance in the Registered Pension Scheme Manual.

## **8. Impact**

The impact of these regulations in respect of pension simplification is contained within the Simplifying the taxation of pensions Regulatory Impact Assessment and Appendix which can be found at: [www.hmrc.gov.uk/ria/simplifying-pensions.pdf](http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf) and [www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf](http://www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf)

## **9. Contact**

Stephen Webb at HM Revenue & Customs (tel: 020 7147 2872 or e-mail: [Stephen.Webb@hmrc.gsi.gov.uk](mailto:Stephen.Webb@hmrc.gsi.gov.uk)) can answer any queries regarding the instrument.