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STATUTORY INSTRUMENTS

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**2013 No. 1741**

**INCOME TAX**

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

	<i>11.06 a.m. on 19th</i>
<i>Made</i> - - - -	<i>July 2013</i>
<i>Laid before the House of</i>	
<i>Commons</i> - - - -	<i>22nd July 2013</i>
<i>Coming into force</i> - -	<i>12th August 2013</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 251(1) of the Finance Act 2004(1) and now exercisable by them(2), and paragraphs 3 and 4(1) of Schedule 22 to the Finance Act 2013(3).

**Citation, commencement and interpretation**

1. These Regulations may be cited as the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013 and come into force on 12th August 2013.

2. In these Regulations—

“HMRC” means Her Majesty's Revenue and Customs;

“paragraph 1” means paragraph 1 of Schedule 22 to the Finance Act 2013;

“paragraph 1(3) event” means an event described in sub-paragraph (3) of paragraph 1 (fixed protection 2014);

“paragraph 1 notice” means a notice of intention to rely upon paragraph 1; and

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- (1) 2004 c. 12. Subsection (2) of section 251 sets out the matters referred to in subsection (1)(a) in respect of which regulations may require persons to provide information of a prescribed description and to preserve documents for a prescribed period. Subsection (6) states that “prescribed” means prescribed by regulations.
- (2) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that insofar as it is appropriate in consequence of section 5, a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be treated as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (3) 2013 c. 29.

“tribunal” means the First-tier Tribunal or, where determined in accordance with the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009<sup>(4)</sup>, the Upper Tribunal.

### **Reliance on paragraph 1**

- 3.—(1) Subject to paragraph (2), an individual may rely on paragraph 1 if—
- (a) the individual has given a paragraph 1 notice to HMRC, and
  - (b) HMRC have accepted that notice by issuing a certificate to the individual.
- (2) An individual may not rely on paragraph 1 if—
- (a) HMRC have refused to accept a paragraph 1 notice in accordance with regulation 6,
  - (b) HMRC have revoked the certificate in accordance with regulation 11, or
  - (c) a paragraph 1(3) event has occurred.

### **The paragraph 1 notice**

- 4.—(1) A paragraph 1 notice must include the following information—
- (a) the title, full name, address (including post code, if applicable) and date of birth of the individual submitting the paragraph 1 notice,
  - (b) the national insurance number of the individual or, where the individual does not qualify for a national insurance number, the reasons for this,
  - (c) a declaration that paragraph 7 of Schedule 36 to the Finance Act 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor in the case of the individual,
  - (d) a declaration that paragraph 12 of that Schedule<sup>(5)</sup> (enhanced protection) will not apply in relation to the individual on and after 6th April 2014, and
  - (e) a declaration that paragraph 14 of Schedule 18 to the Finance Act 2011<sup>(6)</sup> (transitional provision relating to new standard lifetime allowance for the tax year 2012-13) will not apply in relation to the individual on and after 6th April 2014.
- (2) A paragraph 1 notice must—
- (a) be in a form prescribed by HMRC,
  - (b) contain a declaration that the information provided in the notice is true and complete to the best of the knowledge and belief of the person completing the form, and
  - (c) be received by HMRC on or before 5th April 2014.

### **Issue of certificate by HMRC**

- 5.—(1) If HMRC accept the paragraph 1 notice, they must issue a certificate to the individual.
- (2) The certificate must have a unique reference number.

### **Refusal by HMRC to accept notice**

6.—(1) HMRC may refuse to accept the paragraph 1 notice if it does not satisfy the requirements in regulation 4.

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(4) [S.I. 2009/273 \(L. 1\)](#).

(5) 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).

(6) [2011 c. 11](#); paragraph 14 was amended by section 47(1) and (2) of the Finance Act 2013 and [S.I. 2013/1740](#).

(2) If HMRC refuse to accept the paragraph 1 notice the individual may require that HMRC provide reasons for the refusal.

#### **Appeal against refusal to accept notice**

7.—(1) The individual may appeal against a refusal by HMRC to accept the paragraph 1 notice.

(2) The notice of appeal must be given to HMRC before the end of the period of 30 days beginning with the day on which the refusal to accept the paragraph 1 notice was given.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether HMRC were entitled to take the view that the notice did not satisfy the requirements in regulation 4.

(4) If the tribunal allows the appeal, the tribunal may direct HMRC to accept the paragraph 1 notice and issue a certificate to the individual.

#### **Incorrect information given in, or in connection with, the paragraph 1 notice**

8. If the individual realises that any information given in the paragraph 1 notice or given to HMRC in connection with that notice was incorrect or has become incorrect, the individual must provide HMRC with the correct information without undue delay.

#### **Requirement to inform HMRC of a paragraph 1(3) event**

9. Where HMRC have issued a certificate the individual must—

- (a) inform HMRC when a paragraph 1(3) event occurs, and
- (b) provide that information before the end of the period of 90 days beginning with the day on which the individual could first reasonably be expected to have known that a paragraph 1(3) event had occurred.

#### **Replacement of a certificate by HMRC**

10.—(1) HMRC may issue a certificate, replacing the previous certificate, if they have reason to believe that information given in, or in connection with, the paragraph 1 notice was incorrect or has become incorrect.

(2) A certificate issued in accordance with regulation 10(1) must have a unique reference number.

#### **Revocation of a certificate by HMRC**

11. HMRC may revoke a certificate if they—

- (a) have reason to believe that a paragraph 1(3) event has occurred,
- (b) have reason to believe that any of the conditions in paragraph 1(1) of Schedule 22 to the Finance Act 2013 have not been met, or
- (c) have given a taxpayer notice to the individual under Part 1 of Schedule 36 to the Finance Act 2008(7) (power to obtain information and documents from taxpayer) in connection with paragraph 1 and the individual does not reply to that notice within the time specified in the notice.

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(7) 2008 c. 9; taxpayer notice is defined in paragraph 1(2) of Schedule 36.

### **Appeal against replacement or revocation of a certificate**

**12.**—(1) The individual may require HMRC to provide reasons for replacing or revoking the certificate.

(2) Paragraphs (1) and (2) of regulation 7 apply to a decision to replace or revoke the certificate as they apply to a refusal to accept the paragraph 1 notice.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether HMRC replaced or revoked the certificate in accordance with regulations 10(1) or 11.

(4) If the tribunal allows the appeal, the tribunal may direct HMRC to issue a certificate to the individual.

### **Preservation of documents**

**13.**—(1) Where HMRC have issued a certificate the individual must preserve the certificate until no further benefit crystallisation event<sup>(8)</sup> can occur in relation to the individual.

(2) The requirement to preserve the certificate ceases where the certificate has been revoked.

*Edward Troup*

*Ruth Owen*

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

At 11.06 a.m. on 19th July 2013

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(8) Benefit crystallisation event is defined in section 216 of the Finance Act 2004.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Sections 214 to 226 of the Finance Act 2004 (c. 12) provide for the application of the lifetime allowance charge. Section 48 of the Finance Act 2013 (c. 29) has reduced the level of the lifetime allowance, which applies to determine whether the lifetime allowance charge is applicable, to £1,250,000 from tax year 2014-15 onwards.

Part 1 of Schedule 22 to the Finance Act 2013 introduces transitional provisions which provide protection from the lifetime allowance charge (“fixed protection 2014”) for those who may already have built up pension savings in the expectation that the lifetime allowance would remain at the current level of £1,500,000. These Regulations provide how individuals may give notice to Her Majesty’s Revenue and Customs (“HMRC”) that they intend to rely on fixed protection 2014 and make provision for supplementary and incidental matters.

Regulations 3 and 4 make provision about giving that notice, its form and contents. If HMRC accept a notice they must issue a certificate (regulation 5). Regulation 6 sets out the circumstances in which HMRC may refuse to accept a notice and regulation 7 sets out how the individual may appeal against that decision.

Regulations 8 and 9 require that individuals inform HMRC if incorrect information has been given in a notice, or an event occurs which means that the individual is no longer entitled to rely upon the transitional protection.

Regulations 10 and 11 set out the circumstances in which, following acceptance of a notice, HMRC may replace or revoke a certificate. Regulation 12 sets out how the individual may appeal against replacement or revocation. Regulation 13 deals with the preservation of documents.

A Tax Information and Impact Note covering the lifetime allowance was published on 11 December 2012 and updated on 20 March 2013 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.