EXPLANATORY MEMORANDUM TO

THE PENSIONS (ABOLITION OF LIFETIME ALLOWANCE CHARGE ETC) REGULATIONS 2024

2024 No. 356

1. Introduction

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

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

2.1 Bim Afolami MP, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Edwards, Deputy Director for Individuals Policy Directorate, Pensions, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Catherine Batey at HMRC Telephone: 03000 512336 or email: pensions.policy@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The legislation will amend Finance Act 2024 in respect of when pension schemes report tax due on lump sums paid and will clarify the operation of the pension commencement excess lump sum.

4.2 The legislation will amend regulations to provide for the amount of overseas transfer allowance that is available where a member has previously used an amount of their lifetime allowance, some of the reporting arrangements for the overseas transfer allowance and the transitional arrangements for those individuals with existing protections for the lifetime allowance. The legislation also amends Finance Act 2004 in respect of transfers from relieved relevant non-UK schemes.

4.3 The legislation will also introduce a statutory override for schemes. This will ensure scheme rules continue to operate where currently they provide limits on the provision of benefits in relation to the lifetime allowance or related concepts that are removed through Finance Act 2024. The statutory override will cease on 5 April 2029.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The lifetime allowance was introduced as a mechanism for limiting tax favoured pension savings in registered pension schemes. It was the maximum amount of tax-relievable pension savings an individual could benefit from over the course of their lifetime.

5.2 At Spring Budget 2023, the government announced that it would abolish the lifetime allowance. Finance (No. 2) Act 2023 removed the lifetime allowance charge and delivered some changes to support the removal of the charge. This was intended to incentivise those currently considering retirement to remain in employment and to encourage those who had already left the workplace to return.

5.3 At Finance Bill 2023-24, the government delivered further changes to complete the technical work to remove the lifetime allowance from legislation from 6 April 2024. The changes also clarified the tax treatment of pension savings and introduced new allowances to ensure that individuals cannot receive unlimited tax-free lump sums from their pension savings which have already benefited from tax-relief.

5.4 Since publication of the legislation, HMRC has continued to work with industry representatives and has identified further technical amendments necessary to ensure the smooth operation of the new pensions tax framework following the abolition of the lifetime allowance.

5.5 This instrument will affect all individuals affected by the abolition of the lifetime allowance but will ensure all individuals are in the correct tax position.

What was the previous policy, how is this different?

5.6 The lifetime allowance was introduced in 2006 to limit the amount of tax-relieved pension savings an individual could benefit from over their lifetime. Individuals could contribute to their pension over this limit, but they were subject to a tax charge on any amounts over this limit.

5.7 Finance Act 2024 removes the lifetime allowance limit and the associated tax charge. It introduces two new allowances to restrict tax-free elements of lump sums and lump sum death benefits. Individuals will not pay tax where lump sums do not take them above these allowances. The allowances are not reduced by an individual’s income taxed elsewhere, for example, regular pension income. If an individual receives a lump sum in excess of their allowance, the excess will be taxed at their marginal rate.

5.8 In addition, it introduced an overseas transfer allowance. This restricts the tax-free element of transfers to qualifying recognised overseas pension schemes.

5.9 This instrument remedies minor issues arising from legislation (included in Finance Act 2024). Section 14 of, and Schedule 9 to, the Finance Bill 2023-24 contain approximately 100 pages of technical changes to achieve the Ministerial commitment to abolish the lifetime allowance. These regulations will cover four general areas of consequential changes needed to ensure the abolition of the lifetime allowance and the new tax framework operate as intended. In summary:

- Introduction of a statutory override
- Transitional issues that were not included in the Act, mainly around protections

- Consequential changes, where references to parts of Finance Act 2004 contained in other legislation need correcting once Finance Act 2024 takes effect
- Emerging issues with the new legislation, identified through consultation with industry or during the Bill progress which need to be remedied.

5.10 This instrument removes the requirement for a pension scheme administrator to report the income tax position where they have paid a lump sum death benefit. This is a change from the policy under the lifetime allowance, and an amendment to Finance Act 2024 as that did not work exactly as intended.

5.11 It provides for the payment of a pension commencement excess lump sum (PCELS). The PCELS mirrors what members may have been entitled to under the lifetime allowance. This is not a change in policy but a change to the legislation to ensure it meets policy objectives.

5.12 This instrument provides for 100 percent of the lifetime allowance previously used to be deducted from the overseas transfer allowance. This, along with reporting requirements for international aspects, was omitted from Finance Act 2024 as there was insufficient time to include this detail.

5.13 It also corrects an error in Finance Act 2024, to ensure a member's allowances are reduced correctly where they hold a valid protection.

5.14 This instrument provides for a statutory override. This will ensure scheme rules continue to operate where currently they provide limits on provision of benefits in relation to the lifetime allowance. The statutory override means that where scheme rules limit a benefit by reference to the lifetime allowance for example, that rule shall automatically be read as continuing to impose that limit as if the lifetime allowance had continued to apply.

5.15 Finally, this instrument makes minor and consequential changes to other regulations, to ensure the legislation works as intended following the abolition of the lifetime allowance.

6. Legislative and Legal Context

How has the law changed?

6.1 In the United Kingdom, before 6 April 2024, there were no limits on the amount of pension savings that an individual could have, but there were limits on the amount of tax relief available, in accordance with Part 4 of the Finance Act 2004.

6.2 The lifetime allowance set the maximum value of tax relieved pension savings that an individual could benefit from over their lifetime. Where an individual exceeded this limit, a tax charge arose on the excess. Sections 214 to 226 of Finance Act 2004 provided for the lifetime allowance.

6.3 Finance (No. 2) Act 2023 reduced the lifetime allowance tax charge to nil.

6.4 Finance Act 2024 removed the lifetime allowance from Finance Act 2004 and provided for the new pensions tax framework, including the new allowances. Section 14 and Schedule 9 refer to and amend Chapter 15A of Part 9 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003) to provide for lump sums under registered pension schemes.

6.5 Finance Act 2024 provided a regulation making power that enables the government to amend primary legislation; a Henry VIII power. This instrument uses this power to make the following two amendments to Finance Act 2024.

6.6 Regulation 3 of The Registered Pension Schemes (Provision of Information) Regulations 2006 is amended to make clear that for most members, only those lump sums that, wholly or in part, exceed a member's lump sum allowance must be reported to HMRC using new event 24 on the Event Report. For members with protected allowances, any lump sums that would have exceeded the member's lump sum allowance, if they did not have a protection, must be reported.

6.7 References to the permitted maximum are removed from new Chapter 15A ITEPA 2003.

6.8 This instrument will have effect from 6 April 2024.

Why was this approach taken to change the law?

6.9 This approach was chosen as section 14 of, and Schedule 9 to, the Finance Act 2024 needed to be amended by the commencement date of 6 April 2024. The Act contains 100 pages of technical legislation to achieve the Ministerial commitments to abolish the lifetime allowance. We need to make consequential changes to allow the legislation to operate as intended from the commencement date. We have used the power, provided in Finance Act 2024, and other vires to make the necessary changes. The outcome is the same as if we had dealt with the necessary changes through Government amendments.

7. Consultation

Summary of consultation outcome and methodology

7.1 The abolition of the lifetime allowance and the introduction of the new framework for pensions tax have been fully considered by Parliament. However, due to the number and complexities of the changes to legislation required, there was insufficient time for draft regulations to be published on GOV.UK for a technical consultation. The regulations are consequential on Finance Act 2024 and are required to come into force on 6 April 2024.

7.2 However, HMRC has continued to consult and work with pension industry representatives to ensure the regulations accurately reflect the changes necessary to ensure the legislation works as intended.

7.3 HMRC have also continued to work with pension industry representatives to help them fully understand their obligations for a smooth transition following the abolition of the lifetime allowance and the introduction of the new lump sum and lump sum death benefit allowances, and international related aspects.

8. Applicable Guidance

8.1 Existing guidance in the HMRC Pensions Tax Manual[1] and GOV.UK[2] will be updated to reflect both the changes in the Finance Act 2024 and this instrument. Guidance will be published as soon as possible after Royal Assent.

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[1] HMRC Pensions Tax Manual: https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual
[2] GOV.UK Pension Scheme Guidance: https://www.gov.uk/money/pension-scheme-administration

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note[3] covering this instrument was published on GOV.UK on 22 November 2023.

Impact on businesses, charities and voluntary bodies

9.2 We do not expect a significant impact on business, charities or voluntary bodies. Any impact will be from the changes provided for in Finance Act 2024 rather than this instrument.

9.3 This instrument does not impact small or micro businesses.

9.4 We do not expect a significant impact on the public sector. Any impact will be from the changes provided for in Finance Act 2024 rather than this instrument.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that it will be monitored through communications with pension industry representatives. This will include the Pension Stakeholder Forum and regular Pension Scheme Newsletters.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This legislation is connected to a further statutory instrument that will be made on 18 April 2024. Both instruments provide for technical changes to legislation following the abolition of the lifetime allowance.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury (Bim Afolami) has made the following statement regarding Human Rights:

"In my view the provisions of The Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 The instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[3] Tax Information and Impact Note: https://www.gov.uk/government/publications/abolition-of-the-lifetime-allowance-from-6-april-2024/abolition-of-the-lifetime-allowance-lta