Pensions Tax Relief - Individual Protection from the Lifetime Allowance Charge

Consultation document
Publication date: 10 June 2013
Closing date for comments: 2 September 2013

Subject of this consultation:	This consultation is about the detail and implementation of an individual protection regime to accompany the reduction in the pensions lifetime allowance from £1.5 million to £1.25 million from 6 April 2014.
Scope of this consultation:	This document sets out the framework of how individual protection 2014 will work. The consultation also seeks views on aspects of the detail of this protection regime and the draft legislation.
Who should read this:	Individuals whose UK tax relieved pension savings are close to, or greater than £1.25 million. Employers who contribute to registered pension schemes on behalf of their employees. Scheme administrators of registered pension schemes and advisers with clients who have UK tax relieved pension savings.
Duration:	The consultation starts on 10 June 2013 and runs for 12 weeks until 2 September 2013.
Lead official:	Paul Cottis, HM Revenue & Customs (HMRC).
How to respond or enquire about this consultation:	Responses or enquiries about this consultation should be sent either by e-mail to pensions.policy@hmrc.gsi.gov.uk or by post to Paul Cottis, HMRC, Fitzroy House, Castle Meadow Road, Nottingham, NG2 1BB. Additionally for enquires please contact Paul Cottis at HMRC on 03000 564 209
Additional ways to be involved:	Please contact Paul Cottis at HMRC if you would like to discuss any aspect of individual protection 2014 or this consultation.
After the consultation:	The Government will consider responses to the consultation and publish a summary of responses and updated draft legislation and guidance on individual protection 2014 in the autumn. It is expected that the final legislation will be included in Finance Bill 2014.
Getting to this stage:	Alongside the announcement at Autumn Statement 2012 that the lifetime allowance would be reduced to £1.25 million from April 2014, the Government also announced that it would explore with interested parties the feasibility of introducing an individual protection regime to protect existing pension rights. Following these discussions with industry representatives from the private and public sector, the Government announced at Budget 2013 that an individual protection regime would be introduced.

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1. Introduction

Background

1.1 The Government announced on 5 December 2012 that to support its objective of a system of pensions tax relief that is fair, affordable and sustainable, for 2014-15 onwards the Annual Allowance ('AA') would be reduced from £50,000 to £40,000 and the Lifetime Allowance ('LTA') would be reduced from £1.5 million to £1.25 million. The reduction to both the AA and the LTA is an integral part of the Government's deficit reduction plans; protects the public finances from the growing cost of pensions tax relief; and limits the amount of relief going to higher earners.

1.2 Reducing the LTA creates a transitional challenge for individuals who may have already built up pension savings in the expectation that the LTA would remain at least at its current level of £1.5m. The Government has therefore announced that there will be transitional protection available for those who think they may be affected by the change.

1.3 To offer individuals greater flexibility in protecting any pension savings they have built up before 6 April 2014 from the LTA charge, (subject to an overall maximum of the current LTA of £1.5 million), the Government announced at Budget 2013 that it will offer an individual protection regime in addition to a fixed protection regime.

What are the Lifetime Allowance Protection Regimes and who will Benefit?

Fixed Protection 2014

1.4 Fixed protection 2014 ('FP14') entitles individuals to an LTA of £1.5 million. Any new pension savings made by or on behalf of the individual on or after 6 April 2014 are likely to lead to the loss of FP14. Individuals must apply for FP14 before 6 April 2014.

1.5 An individual with FP14 with pension savings of £1.4 million at 6 April 2014 will therefore have an LTA of £1.5 million. Any new savings made on or after 6 April 2014 however, would mean that the individual would revert to the standard LTA of £1.25 million and any tax relieved pension savings above £1.25 million would be subject to the LTA charge. In effect, this means individuals with FP14 are likely to need to opt out of active membership of all UK tax relieved pension schemes if they want to maintain this protection.

1.6 FP14 would be of particular benefit to individuals who think that the value of their pension savings will continue to grow without making any new savings after 6 April 2014. For example, this may be through investment growth, so that the individual expects their pension savings to be over £1.25 million when they take their benefits. It may also be beneficial to those who are able to renegotiate their remuneration package with their employer to take account of the fact that their employer will no longer be making on behalf of the individual the employer contributions they had previously paid into a pension scheme.

Individual Protection 2014

1.7 Individual protection ('IP14') will give individuals a personalised LTA based on the value of their pension savings at 5 April 2014 (up to £1.5 million). It will allow individuals to continue pension saving after 5 April 2014 whilst protecting tax relieved pension savings that have accrued up to that date, subject to an overall maximum of £1.5 million. Individuals will have three years from 6 April 2014 to apply for IP14.

1.8 The option of IP14 would therefore be of particular benefit for those who want to continue saving in their pension scheme after 5 April 2014, albeit that they would normally have a lower LTA than with FP14 and will be subject to LTA charges on the additional savings. IP14 may also be beneficial to an individual whose employer normally contributes towards their pension scheme but, if the individual opted out of the pension scheme, they would not be able to receive the value of those employer contributions in another form such as higher pay. In such cases they may prefer to remain an active member of the scheme and continue to receive the benefit of the employer contributions, albeit that these will be subject to an LTA charge when benefits are taken.

1.9 Individuals will be able to apply for both FP14 and IP14, subject to meeting the eligibility conditions.

Policy Rationale

1.10 The recently announced reduction in the LTA to £1.25 million is expected to impact a wider population than the previous LTA reduction to £1.5 million. This population may not have previously required regular financial advice to make an informed decision about the suitability of FP14. Offering the option of IP14 as well as FP14 would therefore provide greater flexibility for this group to choose the most appropriate protection regime for their personal circumstances and allow them to remain an active member of their pension scheme if they wish.

Scope of Consultation

1.11 The consultation is about the detail and implementation of IP14 alongside FP14.

1.12 Stakeholder discussions after Autumn Statement 2012 suggested that offering IP14 would provide welcome flexibility and would not be unduly burdensome on the pensions industry and individuals. The Government therefore confirmed at Budget 2013 that it would offer this form of protection. This consultation focuses on the most efficient and fair way to implement this policy as well as some of the detail on how it will operate.

1.13 The consultation also includes draft legislation in respect of IP14 at Annex B. This legislation is based on the principles set out in this document.

1.14 This consultation does not invite responses on whether IP14 should be introduced, the level of the allowances for UK tax relieved pension savings including the LTA or alternative transitional protection regimes.

2. Background

Overview

2.1 Individual Protection 2014 (‘IP14’) is intended to allow individuals to protect from the lifetime allowance charge (‘LTA charge’) any pension savings they have on 5 April 2014, which has been accumulated with UK tax relief with a value of between £1.25 million (the standard LTA from 6 April 2014) and £1.5 million (the current LTA since 6 April 2012).

2.2 Individuals with IP14 will have a personalised LTA equal to the value of their pension savings on 5 April 2014, subject to an overall maximum LTA of £1.5 million. An individual’s pension savings will include all pension savings built up with UK tax relief, irrespective of whether those savings have yet come into payment. It therefore includes any pension savings built up with UK tax relief under UK registered pension schemes and non-UK pension schemes.

2.3 This personalised LTA will not be increased unless the standard LTA increases from £1.25 million to a level greater than the individual’s personalised LTA. In these circumstances the individual’s personalised LTA would revert to the standard LTA.

2.4 IP14 will be available to individuals with pension savings of more than £1.25 million on 5 April 2014, providing they do not have existing primary or enhanced protection from the LTA charge (transitional protection regimes available following the introduction of the LTA in 2006, see paragraphs 2.17 to 2.19 below).

2.5 Individuals with pension savings of more than £1.5 million on 5 April 2014 will be able to apply for IP14, where they don’t have existing primary or enhanced protection. They will be entitled to a protected LTA of £1.5 million. The overall maximum of £1.5 million prevents those who have built up pension savings of more than the current standard LTA of £1.5 million prior to 6 April 2014 from protecting more pension savings than they can currently take as pension and/or lump sum without being subject to an LTA charge.

2.6 Individuals with IP14 will be able to carry on actively saving in a registered pension scheme, should they so wish. There will be no restrictions on any further pension savings for individuals with IP14, although when benefits are taken any pension savings above the individual’s personalised LTA will be subject to the LTA charge.

2.7 It is anticipated that the legislation for IP14 will be included in Finance Bill 2014 with supporting Regulations setting out elements such as the application process. Annex B contains the following draft legislation:

- Draft Finance Bill 2014 legislation setting out how IP14 works

- Draft IP14 Notification Regulations[1] setting out how an individual can apply for IP14
- Draft IP14 Information Regulations[2] which set out the reporting requirements for members to the scheme administrator and the scheme administrator to HMRC where a member relies on IP14.

How the Lifetime Allowance Works

2.8 The LTA was introduced as part of the pension tax reforms from 6 April 2006 (referred to as 'A-day')[3]. It was originally set at £1.5 million and increased in stages to £1.8 million by tax year 2010-11. The LTA was reduced to its current level of £1.5 million from 2012-13.

2.9 The LTA is intended to ensure that whilst an individual can save as much as they like towards their pension there is an overall limit on the amount of UK tax relief available. The standard LTA for the current tax year 2013-14 is £1.5 million, so savings in an individual's pension pot up to this amount will not be subject to the LTA charge. The LTA will reduce to £1.25 million from 6 April 2014 for the tax year 2014-15 onwards.

2.10 At certain times (referred to as 'events') the value of an individual's pension savings are tested against the LTA. These events are known as benefit crystallisation events ('BCEs')[4]. For most individuals their BCE(s) will occur when they start to take their benefits from their pension scheme. For example, this can happen when a pension comes into payment or when an individual uses their pension savings to buy an annuity or designates pension savings to provide a drawdown pension. The individual will also normally take a tax-free pension commencement lump sum at the same time. This is a separate BCE.

2.11 Other occasions when a BCE occurs include:

- when an individual reaches age 75 with either uncrystallised funds (funds not yet taken from the pension) or where they are in receipt of a drawdown pension
- where there is a transfer from a UK registered pension scheme to a qualifying recognised overseas pension scheme (QROPS)
- where a scheme pension in payment increases beyond a certain limit
- on the payment of certain lump sums - such as serious ill health lump sums, and some types of death benefit lump sums.

2.12 When a BCE occurs, the scheme administrator calculates the amount crystallised by the BCE and provides the individual with a statement showing the percentage of the standard LTA used up by that BCE. Expressing the amount as a percentage ensures that, if the standard LTA changes, then the BCE is deemed to continue to have used up the same proportion of the LTA.

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[1] The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014
[2] The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2014
[3] Part 4 of Finance Act 2004 sets out the pensions tax rules that apply from A-day
[4] There are eleven BCEs, see section 216 of Finance Act 2004. Section 216 also sets out to how calculate the amount crystallised by each BCE

2.13 Where the total value of pension benefits taken at an individual's various BCEs is more than their available LTA (that is they have exceeded 100% of their LTA entitlement), then the amount of excess benefits are subject to a tax charge known as the LTA charge. The rate of the LTA charge will depend on whether the excess is taken as a lump sum or as pension income.

- Any excess amount over the LTA taken as a lump sum is taxable at 55 per cent.
- Any excess amount over the LTA taken as a pension income is taxable at 25 per cent – in addition the pension is taxable as income in the normal way.

2.14 The individual and the pension scheme administrator are normally jointly liable for paying any LTA charge.

Existing Protection from the Lifetime Allowance Charge

2.15 Prior to 'A-day', there were a number of different pensions tax regimes depending on when a member joined their pension scheme and the type of scheme they were a member of. In some cases it was possible for an individual to build up pension savings prior to A-day, with a value of more than £1.5 million.

2.16 When the LTA was first introduced from A-day, transitional protection from the LTA charge was therefore made available to individuals who thought they may be affected by the original LTA limit of £1.5 million. Two forms of transitional protection were introduced at that time, 'primary' and 'enhanced' protection.

Primary Protection

2.17 Primary protection gives individuals a personalised LTA based on the value of their pre A-day pension savings. The amount by which the individual's pension savings exceeded the A-day LTA is expressed as a factor of the standard LTA. Their personalised LTA was then the standard LTA plus their LTA factor times the standard LTA.

2.18 When the standard LTA was reduced from 6 April 2012, changes to the pensions tax legislation[5] ensured that where an individual had primary protection, their personalised LTA was calculated on the assumption that the standard LTA continued to be £1.8 million rather than using the reduced standard LTA in the formula. This was intended to ensure that an individual's personalised LTA was not reduced in line with the reduction in the standard LTA.

[5] Section 218(5B) of Finance Act 2004 as inserted by paragraph 2(3) of Schedule 18 to Finance Act 2011

Example 1

Amelia had pension savings worth £2.25 million on 5 April 2006. This was 150% of the standard LTA of £1.5 million for 2006-07, and therefore she has an LTA enhancement factor of 0.5.

When the standard LTA increased to £1.8 million in 2010-11, this meant that Amelia had a personalised LTA in 2010-11 of £1.8 million (the standard LTA for 2010-11) plus 0.5 x £1.8 million = £2.7 million.

When the standard LTA reduced to £1.5 million for the 2012-13 tax year, Amelia's personalised LTA remained £2.7 million as the formula continued to operate as if the standard LTA was £1.8 million (£1.8 million + 0.5 x £1.8 million).

Enhanced Protection

2.19 Individuals with enhanced protection are not subject to the LTA charge regardless of the value of their pension savings, but there are restrictions on future pension savings from A-day. Individuals could apply for both enhanced and primary protection at A-day. Where an individual has both forms of protection, enhanced protection takes precedence as long as it remains valid. Where the restrictions for enhanced protection are breached, enhanced protection is lost and the member reverts to the standard LTA or primary protection as appropriate.

Fixed Protection 2012

2.20 When the LTA was reduced from £1.8 million to £1.5 million from 6 April 2012, a further form of transitional protection was introduced. This was known as fixed protection 2012 ('FP12'). Individuals with FP12 have an LTA of £1.8m but cannot make any further contributions to a money purchase arrangement and savings in a defined benefit arrangement cannot increase above a prescribed percentage. This means that, normally, individuals have to opt out of active membership of all registered pension schemes that they are members of, if they want to maintain FP12. Where FP12 is lost, then the individual reverts back to the standard LTA.

Fixed Protection 2014

2.21 Following the Autumn Statement 2012 announcement that the LTA would be reduced to £1.25 million from 6 April 2014, the Government announced that a further transitional protection regime, fixed protection 2014 (FP14) would be introduced. The conditions for FP14 will be the same as for FP12, but FP14 will give individuals an LTA of £1.5 million from 6 April 2014. Legislation for FP14 is included in the current Finance Bill[6]. Applications for FP14 can be made once the FP14 notification Regulations[7] come into force. This is expected to be shortly after the Finance Bill receives Royal Assent. Applications for FP14 must be received by HMRC on or before 5 April 2014.

[6] Clause 47 and Schedule 21 of Finance Bill 2013
[7] The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013 – these were published in draft for comment on 11 December 2012

3. Individual Protection 2014

Who is Eligible for IP14?

3.1 Individuals will be able to apply for IP14, if:-

- they have pension savings of greater than £1.25 million at 5 April 2014, and
- they don't have either primary or enhanced protection (see paragraphs 2.17 to 2.19 above).

This means that any individual will be able to apply for IP14, including those with FP12 or those applying for FP14, providing that on 5 April 2014 they have pension savings in excess of £1.25 million and they do not have either primary or enhanced protection.

3.2 Individuals with IP14 will have a personalised LTA equal to the value of their pension savings on 5 April 2014, but subject to an overall maximum LTA of £1.5 million. The method for valuing pension savings is discussed at paragraphs 3.18 to 3.40 below. This personalised LTA will be expressed as a monetary amount and will not increase unless the standard LTA becomes greater than the individual's personalised LTA. In this case the individual will revert to the standard LTA.

3.3 It is proposed that, for an individual with IP14, the pensions tax legislation should be read as if their personalised LTA was substituted for the standard LTA. This will work in a similar way as it does for those with fixed protection, where the standard LTA is replaced with £1.8 million for those with FP12 and £1.5 million for those with FP14.

Example 2

Bart applies for IP14 and has total pension savings at 5 April 2014 of £1.35 million. Bart will have a personalised LTA of £1.35 million and he is treated as having a standard LTA of £1.35 million for tax purposes.

Catherine applies for IP14 and has total pension savings of £1.6 million at 5 April 2014. Catherine will have a personalised LTA of £1.5 million and she is treated as having a standard LTA of £1.5 million for tax purposes.

The personalised LTA for both Bart and Catherine will not change unless the standard LTA rises above their personalised LTA in which case their LTA will revert to the standard LTA.

3.4 It is proposed that individuals will be able to hold both IP14 and one of the two forms of fixed protection - FP12 (paragraph 2.20) or FP14 (paragraph 2.21).

3.5 Where an individual holds a form of fixed protection and IP14, then fixed protection will take precedence. This means that as long as the fixed protection remains valid, the individual will be able to rely on the higher LTA provided by the particular form of fixed protection they hold. Should fixed protection be lost, then the individual will revert back to IP14 and the relevant personalised LTA, from the date that fixed protection is lost.

Question 1:
Are there particular difficulties for scheme administrators in allowing individuals to hold both fixed protection (FP12 or FP14) and IP14?

3.6 It is proposed that individuals with primary protection and enhanced protection are excluded from applying for IP14.

3.7 Primary Protection – All individuals with primary protection will have had a personalised LTA in excess of £1.5 million on 5 April 2006. As primary protection cannot be lost and IP14 would give a lower personalised LTA than their existing primary protection LTA, there would normally be no benefit to individuals with primary protection in having IP14.

3.8 Enhanced Protection – Individuals with enhanced protection do not have to pay an LTA charge when they take their benefits regardless of the amount crystallised. However, enhanced protection has restrictions that mean any future saving risks loss of the protection.

3.9 Many individuals with enhanced protection also applied for primary protection at A-day, so if they lose enhanced protection they will revert back to primary protection. IP14 should therefore not be more beneficial to these individuals than holding enhanced and primary protection.

3.10 All individuals with enhanced protection will have benefited from generous protection from the LTA charge since 2006 and in many cases have had significant scope to continue to benefit from UK tax relief on their pension savings since then. The Government believes that it would not be fair to allow these individuals to move between different forms of protection on the grounds that one form of protection could be more advantageous than the other at some point in time.

Question 2:
Do you agree that individuals with enhanced protection should be excluded from applying for enhanced protection? If not, please give the reasons why you think there is a case for allowing individuals with enhanced protection to apply for IP14 and set out any difficulties or issues this might create.

Pension Commencement Lump Sum (Tax Free Lump Sum)

3.11 It is proposed that an individual with IP14 would be entitled to take up to 25 per cent of their pension fund as a tax free lump sum (a pension commencement lump sum), but subject to an overall maximum of 25 per cent of their personalised LTA.

3.12 Therefore an individual with IP14 and a personalised LTA of £1.4 million will (subject to their scheme rules) be able to take up to £350,000 as a tax free lump sum.

Question 3:

Would monitoring an individual's personalised LTA for the purposes of the tax free lump sum limit be likely to create difficulties for scheme administrators?

Further Contributions

3.13 Unlike fixed protection, under IP14 there will be no restriction on further contributions or accruing additional pension benefits/rights on or after 6 April 2014. It would therefore not normally be possible for an individual to lose IP14, although see paragraphs 3.43 to 3.48 below where a pension debit occurs in relation to the individual.

LTA Charge

3.14 Where an individual has IP14 and a BCE occurs on or after 6 April 2014, if the total amount of their LTA used up, including the amount crystallised by the BCE, exceeds their personalised LTA, then the excess will be subject to the LTA charge in the usual way. That is, a charge of 55 per cent will apply to the excess if it is taken as a lump sum, or a charge of 25 per cent will apply to the excess if it is taken as pension income.

3.15 For individuals with IP14 who are members of defined benefit schemes, this means that any increase in their promised pension benefits after 5 April 2014 (for example due to an increase in their pensionable pay or their number of years of service) will be subject to the LTA charge when the benefits are taken. Where an individual with IP14 chooses to opt out of active membership of a defined benefit scheme, any increases to their promised deferred pension, including any increases required under legislation[8] will be subject to an LTA charge when the benefits are taken, as their personalised LTA will not increase unless the standard LTA increases.

3.16 For individuals in defined contribution schemes, any new contributions or investment growth in the fund value on or after 6 April 2014 will be subject to the LTA charge when the individual takes their benefits.

Example 3

Neeta has pension savings of £1.32 million on 5 April 2014. Neeta applies for IP14 and has a personalised LTA of £1.32 million. All her pension savings are in a defined contribution scheme.

After 5 April 2014, Neeta contributes a further £40,000 to her pension savings. In addition, through investment growth, her fund increases by a further £160,000 by the time she takes her pension benefits. When Neeta takes her benefits, her BCEs total £1.52 million. This is £200,000 greater than her personalised LTA of £1.32 million, and therefore this excess of £200,000 is subject to the LTA charge.

[8] For example, certain statutory increases are normally applied to deferred rights under a defined benefit scheme

3.17 However, if the standard LTA increases to a level greater than the individual's personalised LTA under IP14 and the total value of their BCEs is less than this when benefits are taken the individual would not be subject to an LTA charge.

Example 4

Derek has pension savings of £1.3 million at 5 April 2014 and applies for IP14. Derek will have a personalised LTA of £1.3 million under IP14.

If the standard LTA is increased to £1.4 million, the standard LTA would be greater than Derek's personalised LTA of £1.3 million, so his LTA reverts to the standard LTA of £1.4 million.

Valuing Pension Savings for IP14

3.18 An individual who wants to apply for IP14 will need to have a valuation of all their pension savings built up with UK tax relief on 5 April 2014. This will include any benefits that have not yet come into payment, benefits already tested against the LTA (that is those taken since A-day - 6 April 2006), and those benefits that came into payment before 6 April 2006 and therefore have not been tested against the LTA.

3.19 There are methods for valuing all these elements set out in the current pensions tax legislation. For simplicity and consistency it is intended that the existing valuation methodology will be used where possible.

3.20 In addition to pension savings in UK registered pension schemes, any pension savings built up in overseas pension schemes with UK tax relief that are tested against the LTA will also need to be included in the valuation.

3.21 It is therefore proposed that the value of an individual's pension savings will be the sum of four elements:

- Pension savings in UK registered pension schemes that have not yet come into payment (uncrystallised rights) and therefore have not been tested against the LTA.
- Pension savings built up with UK tax relief that have already been tested against the LTA (crystallised rights).
- Pension savings built up with UK tax relief that came into payment before 6 April 2006 when the LTA was first introduced.
- Pension savings with UK tax relief in overseas pension schemes that will be tested against the LTA.

3.22 For administrative ease it is proposed that the valuation of each of these four elements adheres as closely as possible to the existing methods for valuing pension savings. This should also ensure that, where pension benefits have already used up part of an individual's LTA, then the value of those benefits will for the purposes of IP14 be based on the value of the BCE(s) that occurred in relation to those rights.

Valuing Uncrystallised Rights

3.23 Where pension savings have not yet come into payment, there won't have been a BCE in respect of these uncrystallised rights, so a method is required to determine the value.

3.24 For money purchase arrangements it is proposed that the value of any uncrystallised rights will be the aggregate of the amount of cash held under the arrangement on 5 April 2014 and the market value on that date of any assets held by the arrangement to provide the individual's benefits.

3.25 For defined benefit arrangements the value will be 20 times the annual rate of pension the individual would be entitled to, if they became entitled to the actual payment of the pension on 5 April 2014, plus the value of any separate lump sum that is provided (that is where a lump sum is provided other than by commutation of part of the pension).

3.26 This is similar to the existing method for valuing uncrystallised rights when determining whether the unauthorised payments surcharge applies[9]. The same method was also used as the basis for valuing uncrystallised rights primary protection at A-day and should therefore be familiar to most scheme administrators.

3.27 Pension savings in overseas pension schemes (which are not registered pension schemes) will have a different method of valuation, see paragraphs 3.35 to 3.40 below.

Valuing Post A-day BCEs

3.28 Where a BCE occurs, the amount crystallised by the event is valued in different ways depending on the type of event. The method for valuing the amount crystallised is set out in the current pensions tax legislation[10].

3.29 For the purposes of valuing rights for IP14, where an individual has had one or more BCEs between 6 April 2006 and 5 April 2014, the value of those savings will be the sum of all the amounts crystallised under each BCE. This will then be adjusted to reflect any change in the level of the standard LTA between the date on which the BCE occurred and 5 April 2014 (when the standard LTA was £1.5 million). This adjustment ensures that the percentage of the individual's LTA used up by the BCE does not change over time.

[9] See Section 212 of Finance Act 2004 for valuing uncrystallised rights for the purposes of the unauthorised payments surcharge
[10] See section 216 of Finance Act 2004

Example 5

Ewan became entitled to a scheme pension of £45,000 per annum on 1 June 2011. Ewan also became entitled to a tax free lump sum of £150,000 at the same time. The standard LTA for 2011-12 was £1.8 million.

Becoming entitled to a scheme pension is a BCE (a BCE2[11]) and the amount crystallised is calculated by multiplying the initial rate of pension by 20, in this instance 20 x £45,000 = £900,000. Receiving a tax free lump sum is also a BCE (a BCE6[12]) and the amount crystallised is the amount of the tax free lump sum paid, which in this instance is £150,000. Ewan's BCEs therefore had a total value of £1.05 million and used up 58.33% of the standard LTA of £1.8 million for 2011-12.

For the purposes of the valuation for IP14, these BCEs will be worth (£900,000 + £150,000) x £1.5 million (the standard LTA for 2013-14) divided by £1.8m (the standard LTA for 2011-12 when the BCE occurred) = £875,000. This is 58.33% of the standard LTA of £1.5 million for 2013-14.

Ewan also has uncrystallised funds worth £600,000 on 5 April 2014, so his personalised LTA for IP14 will be £875,000 + £600,000 = £1.475 million.

Valuing Pre A-day Pensions in Payment

3.30 Pensions in payment prior to A-day are not considered to have generated a BCE although they are taken into account, and a value attached, for the purposes of the LTA when a BCE occurs after that date.

3.31 After A-day if an individual has a BCE for example because a new pension comes into payment, if they also have a pre A-day pension in payment, there is a deemed BCE in respect of the pre A-day pension immediately before the first actual BCE occurs. The deemed BCE is given a value for the purposes of the LTA at that point. This valuation does not trigger an actual BCE and is therefore not in itself tested against the LTA. However the value of the deemed BCE is added to the value of the actual BCE to determine whether the individual has exceeded their LTA. This ensures that, if the value of the pre A-day pension exceeds the LTA, while the excess is not subject to the LTA charge, the entire value of the actual BCE is subject to the charge because the individual will have no unused LTA following the deemed BCE.

3.32 Currently, to calculate the value of a pre A-day pension, the annual rate of the pension in payment at the time the BCE occurs is multiplied by 25[13]. A 25:1 factor is used to reflect the fact that individuals will generally have also received a tax free lump sum prior to A-day in addition to the pension. Including an element in the pension factor for the tax free lump sum is intended to maintain simplicity and ensures that records do not need to be kept of the amount of any lump sum which may have been paid many years prior to the current BCE.

[11] Becoming entitled to a scheme pension is a BCE2 – see section 216 of Finance Act 2004
[12] Becoming entitled to a pension commencement lump sum is a BCE6
[13] Paragraph 20 of Schedule 36 to Finance Act 2004

3.33 It is proposed that a similar method of valuation of pre A-day pensions is used for the purposes of IP14. However, as with the valuation of BCEs, the amount of any deemed BCE in respect of a pre A-day pension will be adjusted by any change in the LTA, to ensure that the percentage of the individual's LTA used up by the pre A-day pension does not change over time.

3.34 Where no BCE has occurred since A-day, then the value of a pre A-day pension will be 25 x the annual rate of the pre A-day pension on 5 April 2014.

Example 6

Freda had an annuity in payment at A-day of £34,000 per annum. Freda crystallised further benefits on 1 December 2007 with a BCE value of £160,000. The annual rate of the annuity at the time of the BCE has risen to £40,000 per annum. The standard LTA for 2007-08 was £1.6 million.

The pre A-day pension was valued at the time of the BCE as 25 x £40,000 (the annual rate of the annuity at the time of the BCE rather than at A-day) = £1 million (62.5% of the standard LTA for 2007-08). Freda therefore has a deemed BCE of £1 million on the pre A-day pension.

For the purposes of IP14, the pre A-day annuity will have a value of the deemed BCE multiplied by the standard LTA for 2014-15 divided by the standard LTA for 2007-08.

That is £1 million x £1.5 million/£1.6 million = £937,500 (62.5% of the standard LTA for 2013-14).

The BCE of £160,000 will have a value for IP14 of £150,000 – that is £160,000 x £1.5 million/£1.6 million.

Freda also has uncrystallised rights of £300,000 on 5 April 2014.

Freda will therefore be entitled under IP14 to a personalised LTA of £937,500 + £150,000 + £300,000 = £1.3875 million.

Valuing Uncrystallised UK Tax Relieved Savings in Non-UK Pension Schemes

3.35 It is also possible to have UK tax relieved pension savings in a non-UK pension scheme that is not a registered pension scheme. The LTA therefore also applies to individuals with UK tax relieved pension savings built up in these non-UK pension schemes.

3.36 All contributions made since A-day to a non-UK pension scheme which have received Migrant Member Relief, Transitional Corresponding Relief or Double Taxation Relief are taken into account in determining whether or not the individual is liable to the LTA charge.

3.37 Broadly, these are pension savings that relate to UK tax relieved contributions made by or in respect of the individual to the non-UK pension scheme after 5 April 2006 or the increase in the value of the individual's pension savings relating to UK employment accrued in the non-UK pension scheme after 5 April 2006.

3.38 Such pension savings in a non-UK pension scheme are referred to as the 'relieved amount'. Generally, the relieved amount is the total of the pension input amounts to the non-UK pension scheme in respect of the individual that would have been taken into account for the purpose of the annual allowance.[14]

3.39 When a BCE occurs for an individual in relation to their non-UK pension scheme, the tax rules deem the amount crystallised to come from the relieved amount first. This ensures that it is only the individual's relieved amount in the non-UK pension scheme that is tested against the individual's available LTA.

3.40 It is proposed that, for the purposes of IP14, the value of any uncrystallised pension savings in a non-UK pension scheme will be determined on 5 April 2014 as if a BCE had occurred on that date. The value for IP14 will then be the amount of the individual's untested relieved amount immediately before the deemed BCE. This is the same basis as currently used for testing pension savings in a non-UK scheme against the LTA, but on the assumption here that a BCE occurs in respect of those savings on 5 April 2014.[15]

Example 7

Graeme has pension savings in a non-UK pension scheme only. Included in those pension savings are savings made after 5 April 2006 that received UK tax relief and which would ordinarily be tested against the LTA (a 'relieved amount').

Graeme has no other pension savings that would be tested against the LTA and has not yet drawn any pension savings from the non-UK pension scheme.

On 5 April 2014 a BCE is deemed to occur in relation to the pension savings in the non-UK pension scheme. The value of the pension savings at that time is £2 million.

Graeme establishes what the untested 'relieved amount' of the pension savings in the non-UK pension scheme would be immediately before the deemed BCE in the same as if a BCE occurred ordinarily.

The untested relieved amount immediately before the deemed BCE is calculated as £1.44 million.

Graeme will be entitled to a personalised LTA of £1.44 million under IP14.

[14] See paragraphs 8 to 12 of Schedule 34 to Finance Act 2004
[15] See paragraphs 13 and 14 of Schedule 34 to Finance Act 2004

Qualifying Recognised Overseas Pension Schemes (QROPS)

3.41 The value of a transfer of pension savings from a UK registered pension scheme to a non-UK scheme that meets the requirements to be a QROPS is also tested against the lifetime allowance. A QROPS[16] is a non-UK pension scheme that meets certain requirements set out in legislation to receive transfers of pension savings from UK registered pension schemes without normally incurring any UK tax charges, but this is subject to the value of the transfer to the QROPS being tested against the LTA.

3.42 The transfer of pension savings from a UK registered pension scheme to a QROPS is a BCE under the current tax legislation.[17] Therefore any funds transferred into a QROPS since A-day will already have been tested against the LTA at the time of the transfer and should, for the purposes of determining the value of an individual's LTA for IP14, be included in the total of their post A-day BCEs. Transfers from a UK registered pension scheme to a QROPS should therefore not be included in the valuation of an individual's pension savings under the element covering non-UK pension schemes.

Question 4:
Are these valuation methods fair and appropriate?

Question 5:
Are there any issues or additional burdens associated with these valuation methods?

Changes to the Valuation

3.43 Normally an individual's personalised LTA under IP14 will not change. However there are occasions when the value of an individual's pension rights are reduced for example where, following a divorce, the pension rights of the individual are shared with the ex-spouse by order of a court and a pension debit is applied to the individual's pension savings. These pension rights are then credited to their ex-spouse.

3.44 If no adjustment is made to the individual's personalised LTA they would be able to build up new tax relieved pension savings without being subject to an LTA charge. This would go against the policy behind IP14, namely to protect existing pension rights against the LTA charge.

3.45 Therefore, where an individual is subject to a pension debit on or after 6 April 2014, it is proposed that their personalised LTA under IP14 will be reduced by the amount of the pension debit. This is similar to the position with existing primary protection and ensures that the individual is not able to rebuild their tax relieved pension savings back to the level of their original personalised LTA following the pension debit without being subject to an LTA charge on any excess over the standard LTA.

[16] Section 169(2) of Finance Act 2004 and regulations 2 and 3 of the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 (SI 2006/206)
[17] BCE 8 section 216 of Finance Act 2004

3.46 If the pension debit reduces the individual's personalised LTA to less than £1.25 million then IP14 will be lost from the date of the pension debit and the individual will revert to the standard LTA. If, after the reduction for the pension debit, the personalised LTA is above £1.25 million, then the individual will retain IP14 but they will only be entitled to the lower personalised LTA from the date of the pension debit.

3.47 Where a pension debit occurs, the individual will be required to contact HMRC to advise the amount of the pension debit and the date the debit applied from. HMRC will then revoke the original IP14 certificate which was issued to the individual when they applied for IP14. Where IP14 still applies to the individual but with a lower personalised LTA, HMRC will issue a new certificate for the lower personalised LTA which will apply from the date of the pension debit.

3.48 Any BCE that has occurred before the date of the pension debit will not be affected.

Example 8

Heather has IP14 with a personalised LTA of £1.4 million. On 1 January 2015 Heather is required to give £500,000 of her pension rights to her ex spouse under a pension sharing order. A pension debit in that amount is applied to her pension rights.

Heather's personalised LTA is now less than the standard LTA of £1.25 million. Therefore she is no longer entitled to IP14 and Heather would revert back to the standard LTA of £1.25 million.

Revaluation of Pension Debits

3.49 Where a pension debit occurs after 6 April 2014, it is likely that the pension debit will be based on the total amount of the pension savings that the individual has at the time of the pension debit, rather than at 6 April 2014. This may mean that where for example a debit is applied that is 50 per cent of an individual's savings, this debit will be greater than 50 per cent of the individual's personalised LTA under IP14.

Example 9

Jacob has IP14 with a personalised LTA of £1.42 million.

Jacob's pension savings grow to £1.8 million through a combination of further contributions and investment growth. Jacob's pension savings are subject to a pension debit of 10%, that is £180,000. Jacob will no longer be entitled to IP14 as £1.42 million - £180,000 = £1.24 million and Jacob reverts to the standard LTA.

However, if for example the pension debit had been revalued for the purposes of IP14 to take account of the change in the value of Jacob's pension savings since 5 April 2014, Jacob would still have IP14, albeit with a personalised LTA of £1.42 million - £142,000 = £1.278 million.

3.50 Currently, where an individual has primary protection and they are subject to a pension debit, the value of any pension debit is subtracted from the individual's personalised LTA, but no account is taken of the change in value of the individual's pension savings between the time of the pension debit and A-day.

Question 6:
Should there be some form of revaluation of the pension debit for IP14 to take into account the change in the value of the individual's pension rights since 5 April 2014 and, if so, on what basis this should be done?

Scheme Pays

3.51 Where an individual has an annual allowance charge for a tax year in excess of £2,000 and their pension savings for that year in a particular scheme exceed the annual allowance, the individual can require the scheme administrator to pay some or all of their annual allowance charge. In return, the scheme administrator must make an equivalent reduction in the individual's pension benefits under the scheme. It is also possible for the scheme to pay an individual's annual allowance charge on a voluntary basis, but there should also be an equivalent reduction in the individual's pension rights. This process is known as 'scheme pays' [18]

3.52 The Government is considering whether, in order to ensure the rules are applied fairly, a deduction should be made to the level of the personalised LTA for those with IP14 where there is a reduction in their pension rights under 'scheme pays'. This would occur where the scheme administrator has paid an annual allowance charge on behalf of the individual in return for a reduction in their benefits. Currently, for those with primary protection, no deduction is made where a scheme pays adjustment occurs.

Question 7:
Are there any particular reasons why a scheme pays adjustment should not be deducted from an individual's personalised LTA, and in particular are there any specific administrative burdens that this might lead to?

Question 8:
What would be the impact if a deduction was also applied to individuals with primary protection whose pension savings are subject to a scheme pays adjustment?

Question 9:
Are there any other circumstances when an individual's personalised LTA under IP14 should be adjusted?

Applying for Individual Protection 2014

[18] Section 237E of Finance Act 2004 sets out when an adjustment must be made to an individual's benefits in these circumstances

3.53 To apply for IP14, an individual will have to have a valuation of their pension savings as at 5 April 2014. Since they will not have this information before 6 April 2014, they will not be able to apply for IP14 before that date. This is a similar situation to when primary protection was introduced from A-day.

3.54 The window for applying for IP14 will need to be longer than for fixed protection, as individuals will need to get valuations of their UK tax relieved pension savings from all their pension schemes.

3.55 The Government is therefore considering a three year window for applications for IP14. That is, applications for IP14 must be received by HMRC by 5 April 2017. The Government believe that this would be a reasonable period as it will allow individuals time to collect the required information and potentially spread the workload for scheme administrators in providing valuations. It also recognises that some schemes have complex methods of determining benefits accrued and it may take some time for individuals with multiple schemes to get all the necessary information.

Question 10:
Is a three year window for IP14 applications about the right timeframe, and are there any issues associated with this?

3.56 Individuals will apply for IP14 using a form which will be available on the HMRC website. It is intended to make the process as simple as possible so the form will only require details about the applicant and their existing pension rights at 5 April 2014. On receipt of a valid application, HMRC will send a certificate to the individual setting out what their personalised LTA is. The draft IP14 Notification Regulations which set out the proposed detail around the application process are included at Annex B.

3.57 Every time the individual with IP14 has a BCE, they will need to present this certificate to the scheme administrator who will calculate the percentage of their LTA used up and provide the individual with a statement showing the percentage. The individual will need to provide such statements to the scheme administrator in addition to their IP14 certificate when subsequent BCEs occur. The value of any benefits taken above their personalised LTA will be subject to the LTA charge in the normal way. The draft IP14 Information Regulations which set out the new information requirements relating to IP14 are also included at Annex B.

3.58 Where an individual has already taken some of their benefits prior to 6 April 2014, the percentage of their LTA that these previous benefits have used up will not need to be adjusted. Where an individual has IP14 and has had a BCE prior to 6 April 2014, the availability of their LTA will apply as if their personalised LTA was the standard LTA. This may in some instances allow individuals slightly more headroom against their personalised LTA than would otherwise be the case.

Example 10

Ivan applies for IP14. His pension savings are made up of £1 million in respect of a BCE in 2011-12 (original BCE value was £1.2 million) and £350,000 uncrystallised funds. Ivan will therefore have a personalised LTA of £1.35 million.

The BCE of £1.2 million will have used up 67% of the standard LTA at the time of the BCE (£1.8 million). For IP14 purposes the BCE was revalued to £1 million (67% of the 2013-14 LTA of £1.5 million). If Ivan crystallises further benefits in 2014-15, the earlier BCE will be deemed to have used up £1.2 million x £1.35 million/£1.8 million = £900,000 (67% of his personalised LTA) when calculating how much LTA Ivan still has available.

Ivan will still be able to crystallise a further £450,000 (£1.35 million less £900,000) without exceeding his LTA.

Legislation

3.59 The detail of IP14 and the powers to make the necessary Regulations are expected to be included in Finance Bill 2014. This would mean that the legislation for IP14 would not come into force until after the Finance Bill receives Royal Assent. Royal Assent would be expected to be in summer 2014. Although this legislation is intended to have retrospective effect from 6 April 2014, until Royal Assent there would be no legislation in place setting out how individuals could apply for IP14. In practice this would mean that individuals would not be able to apply for IP14 until after Royal Assent for the Finance Bill.

3.60 Therefore where an individual who wants to apply for IP14 has a BCE before the legislation comes into force, then they won't be able to rely on the higher LTA provided by IP14 at the time of the BCE. However, once the legislation is in force and the individual has received their IP14 certificate, then the scheme administrator will need to re-calculate the percentage of their LTA used up by the BCE, based on the higher LTA provided by IP14.

Question 11:
Are there any difficulties and issues that may arise if individuals cannot apply for IP14 until summer 2014?

Interaction with Fixed Protection

3.61 Individuals who want to apply for FP14 will have to do so before 6 April 2014. They will need to stop contributing to any money purchase arrangement and ensure that benefits in any defined benefits arrangement will not increase above a set level from this date.

3.62 To help ensure that individuals have sufficient information about IP14 well in advance of the deadline for applying for FP14, we are consulting now on the detail of the IP14 regime as well as on the draft legislation. This will enable interested parties to provide early comment on the structure of IP14 and the proposed legislation, and should allow near final draft legislation and guidance to be published by the end of 2013. This is intended to give individuals and advisors as much certainty as possible about how IP14 will work and enable them to make decisions about whether they want to apply for FP14, IP14 or both, even though the legislation for IP14 will not be final and will not yet have come into force.

Question 12: If you have any comments on the draft legislation at Annex B, please include these as part of your response.

Question 13:
Does the Tax Information and Impact Note at Annex C capture correctly the impacts and burdens associated with the introduction of IP14?

4. Summary of Consultation Questions

Question 1: Are there particular difficulties for scheme administrators in allowing individuals to hold both fixed protection (FP12 or FP14) and IP14?

Question 2: Do you agree that individuals with enhanced protection should be excluded from applying for enhanced protection? If not, please give the reasons why you think there is a case for allowing individuals with enhanced protection to apply for IP14 and set out any difficulties or issues this might create.

Question 3: Would monitoring an individual's personalised LTA for the purposes of the tax free lump sum limit, be likely to create difficulties for scheme administrators?

Question 4: Are these valuation methods fair and appropriate?

Question 5: Are there any issues or additional burdens associated with these valuation methods?

Question 6: Should be some form of revaluation of the pension debit for IP14 to take into account the change in the value of the individual's pension rights since 5 April 2014 and if so, on what basis this should be done?

Question 7: Are there any particular reasons why a scheme pays adjustment should not be deducted from an individual's personalised LTA, and in particular are there any specific administrative burdens that this might lead to?

Question 8: What would be the impact if a deduction was also applied to individuals with primary protection whose pension savings are subject to a scheme pays adjustment?

Question 9: Are there any other circumstances when an individual's personalised LTA under IP14 should be adjusted?

Question 10: Is a three year window for IP14 applications about the right timeframe, and are there any issues associated with this?

Question 11: Are there any difficulties and issues that may arise if individuals cannot apply for IP14 until summer 2014?

Question 12: If you have any comments on the draft legislation at Annex B, please include these as part of your response.

Question 13:.Does the Tax Information and Impact Note at Annex C capture correctly the impacts and burdens associated with the introduction of IP14?

5. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stages 2 and 3 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals. The consultation is also seeking views on draft legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

How to respond

A summary of the questions in this consultation is included at chapter 4.

Responses should be sent by 2 September 2013, by e-mail to pensions.policy@hmrc.gsi.gov.uk or by post to:

Paul Cottis
HM Revenue & Customs
Fitzroy House
Castle Meadow Road
Nottingham, NG2 1BB.

Additionally for enquires please contact Paul Cottis at HMRC on 03000 564 209 or by fax to 03000 564 567.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from HMRC Inside Government. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentially can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: Relevant (Current) Legislation

- Part 4 of Finance Act 2004 sets out the pensions tax legislation as it applies to registered pension schemes.
- Sections 214 to 226 of Finance Act 2004 relate to the lifetime allowance charge.
- Part 1 of Schedule 18 to Finance Act 2011 relates to fixed protection 2012.
- Schedule 21 of the current Finance Bill relates to fixed protection 2014.

Annex B: Proposed Draft Legislation

- Draft Finance Bill 2014 legislation setting out how IP14 works
- Draft IP14 Notification Regulations - The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014
- Draft IP14 Information Regulations -The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2014.

1 Standard lifetime allowance

Schedule 1 makes provision in relation to the standard lifetime allowance.

SCHEDULES

SCHEDULE 1

Section 1

TRANSITIONAL PROVISION RELATING TO NEW STANDARD LIFETIME ALLOWANCE

PART 1

"INDIVIDUAL PROTECTION 2014"

The protection

1 (1) Sub-paragraph (2) applies on or after 6 April 2014 in the case of an individual—
(a) who, on 5 April 2014, has one or more relevant arrangements (see sub-paragraph (4)),
(b) whose relevant amount is greater than £1,250,000 (see sub-paragraph (5)),
(c) in relation to whom paragraph 7 of Schedule 36 to FA 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor, and
(d) in relation to whom paragraph 12 of that Schedule (enhanced protection) does not apply on 6 April 2014,

if notice of intention to rely on it is given to an officer of Revenue and Customs.

(2) Part 4 of FA 2004 has effect in relation to the individual as if the standard lifetime allowance were—
(a) if the individual's relevant amount is greater than £1,500,000, the greater of the standard lifetime allowance and £1,500,000, or
(b) otherwise, the greater of the standard lifetime allowance and the individual's relevant amount.

(3) But sub-paragraph (2) does not apply in relation to any benefit crystallisation event occurring at a time when paragraph 14 of Schedule 18 to FA 2011 or paragraph 1 of Schedule 21 to FA 2013 applies in the case of the individual.

(4) "Relevant arrangement", in relation to an individual, means an arrangement relating to the individual under—
(a) a registered pension scheme of which the individual is a member, or
(b) a relieved non-UK pension scheme of which the individual is a relieved member.

(5) An individual's "relevant amount" is the sum of amounts A, B, C and D (see paragraphs 2 to 5).

(6) Sub-paragraphs (7) and (8) apply if, at a time ("the relevant time") on or after 6 April 2014, rights of an individual under a relevant arrangement become subject to a pension debit.

(7) For the purpose of applying sub-paragraph (2) in the case of the individual in relation to benefit crystallisation events occurring at or after the relevant time, the individual's relevant amount is reduced (or further reduced) by the amount of the pension debit.

(8) But if the individual's relevant amount would be reduced (or further reduced) to £1,250,000 or less, sub-paragraph (2) is not to apply at all in the case of the individual in relation to benefit crystallisation events occurring at or after the relevant time.

Amount A

2 (1) To determine amount A—
  (a) apply sub-paragraph (2) if a benefit crystallisation event has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14;
  (b) otherwise, apply sub-paragraph (6).

(2) If this sub-paragraph is to be applied, amount A is—

$$25 \times \mathrm{ARP} \times \frac{1,500,000}{\mathrm{SLT}}$$

where—

ARP is (subject to sub-paragraph (4)) an amount equal to—
  (a) the annual rate at which any relevant existing pension was payable to the individual at the time immediately before the benefit crystallisation event occurred, or
  (b) if more than one relevant existing pension was payable to the individual at that time, the sum of the annual rates at which each of the relevant existing pensions was so payable, and

SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event occurred.

(3) If more than one benefit crystallisation event has occurred, in sub-paragraph (2) references to the benefit crystallisation event are to be read as references to the first benefit crystallisation event.

(4) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of "ARP" in sub-paragraph (2).

(5) If the benefit crystallisation event occurred before 6 April 2011, sub-paragraph (4) is to be applied ignoring the effect of Schedule 16 to FA 2011.

(6) If this sub-paragraph is to be applied, amount A is—

$$25 \times \mathrm{ARP}$$

where ARP is (subject to sub-paragraph (7)) an amount equal to—
  (a) the annual rate at which any relevant existing pension is payable to the individual at the end of 5 April 2014, or
  (b) if more than one relevant existing pension is payable to the individual at the end of 5 April 2014, the sum of the annual rates at which each of the relevant existing pensions is so payable.

(7) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of "ARP" in sub-paragraph (6).

(8) In sub-paragraphs (2) and (6) "relevant existing pension" is to be read in accordance with paragraph 10(2) and (3) of Schedule 36 to FA 2004.

(9) But, for the purposes of sub-paragraphs (2) and (6), account is to be taken of a relevant existing pension only if the individual had, at the end of 5 April 2006, an actual (rather than a prospective) right to the payment of the pension.

(10) Paragraph 10(4) and (5) of Schedule 36 to FA 2004 operates for the purposes of sub-paragraphs (2) and (6) for determining the annual rate at which a relevant existing pension is payable at any time (treating references to 5 April 2006 as references to that time).

Amount B

3 (1) To determine amount B—

(a) identify each benefit crystallisation event that has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14,

(b) determine the amount which was crystallised by each of those benefit crystallisation events (reducing it in accordance with paragraph 14 of Schedule 34 to FA 2004 if relevant), and

(c) multiply each crystallised amount by the following fraction—

$$\frac{1,500,000}{SLT}$$

where SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event in question occurred.

(2) Amount B is the sum of the crystallised amounts determined under sub-paragraph (1)(b) as adjusted under sub-paragraph (1)(c).

Amount C

4 Amount C is the total value of the individual's uncrystallised rights at the end of 5 April 2014 under arrangements relating to the individual under registered pension schemes of which the individual is a member as determined in accordance with section 212 of FA 2004.

Amount D

5 (1) To determine amount D—

(a) identify each relieved non-UK pension scheme of which the individual is a relieved member at the end of 5 April 2014, and

(b) in relation to each such scheme—

(i) assume that a benefit crystallisation event occurs in relation to the individual at the end of 5 April 2014, and

(ii) in accordance with paragraph 14 of Schedule 34 to FA 2004, determine what the untested portion of the relevant relieved amount would be immediately before the assumed benefit crystallisation event.

(2) Amount D is the sum of the untested portions determined under sub-paragraph (1)(b)(ii).

Interpretation

6 (1) Expressions used in this Part of this Schedule and Part 4 of FA 2004 have the same meaning in this Part as in that Part.

(2) In particular, references to a relieved non-UK pension scheme or a relieved member of such a scheme are to be read in accordance with paragraphs 13(3) and (4) and 18 of Schedule 34 to FA 2004.

PART 2

REGULATIONS

7 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of this Schedule.

(2) Regulations under this paragraph must not increase any person's liability to tax.

(3) Regulations under this paragraph may include provision having effect in relation to a time before the regulations are made; but the time must be no earlier than 6 April 2014.

8 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) specifying how any notice required to be given to an officer of Revenue and Customs under Part 1 of this Schedule is to be given;

(b) requiring other notices to be given to or by an officer of Revenue and Customs in connection with that Part and specifying how such notices are to be given.

(2) In sub-paragraph (1) references to Part 1 of this Schedule are to that Part as amended from time to time by regulations under paragraph 7.

9 (1) Regulations under paragraph 7 or 8 may include supplementary or incidental provision.

(2) The powers to make regulations under paragraphs 7 and 8 are exercisable by statutory instrument.

(3) A statutory instrument containing regulations under paragraph 7 or 8 is subject to annulment in pursuance of a resolution of the House of Commons.

STATUTORY INSTRUMENTS

2014 No.

INCOME TAX

The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014

Made - - - -	***
Laid before the House of Commons	***
Coming into force - -	***

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(**a**) and now exercisable by them(**b**), and paragraphs 8 and 9(1) of Schedule [XX] to the Finance Act 2014(**c**).

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 2014 and come into force on [XX].

2. In these Regulations—

"HMRC" means Her Majesty's Revenue and Customs;

"individual's relevant amount" means the amount calculated in accordance with paragraph 1(5) of Schedule [XX] to the Finance Act 2014;

"paragraph 1" means paragraph 1 of Schedule [XX] to the Finance Act 2014 (individual protection 2014);

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

"tribunal" means the First-tier Tribunal or, where determined in accordance with the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009(**d**), the Upper Tribunal.

Reliance on paragraph 1

3.—(1) Subject to paragraph (2), an individual may rely on paragraph 1 if—

(**a**) 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.

(**b**) 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.

(**c**) 2014 c. [XX].

(**d**) S.I. 2009/273 (L. 1).

(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, or

(b) HMRC have revoked the certificate in accordance with regulation 11.

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) the individual's relevant amount,

(d) the date and amount of any pension debit(**a**) to which a relevant arrangement in relation to the individual became subject on or after 6th April 2014,

(e) 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, and

(f) a declaration that paragraph 12 of that Schedule(**b**) (enhanced protection) 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 2017.

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.

(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.

(**a**) Pension debit is defined in section 279(1) of the Finance Act 2004.

(**b**) 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).

(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 notify HMRC of a pension debit

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

(a) inform HMRC if their rights under a relevant arrangement become subject to a pension debit, and

(b) provide that information before the end of the period of 90 days beginning with the day on which the individual's rights under the arrangement become subject to the pension debit.

Replacement of a certificate by HMRC

10.—(1) HMRC may issue a certificate, replacing the previous certificate, if they have reason to believe that—

(a) information given in, or in connection with, the paragraph 1 notice was incorrect or has become incorrect, or

(b) the individual's rights under the arrangement have become subject to a pension debit.

(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 any of the conditions in paragraph 1(1) of Schedule [XX] to the Finance Act 2014 have not been met,

(b) have reason to believe that by virtue of a pension debit paragraph 1(2) of that Schedule has ceased to apply in the case of the individual, or

(c) have given a taxpayer notice to the individual under Part 1 of Schedule 36 to the Finance Act 2008(**a**) (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.

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.

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

(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(**a**) can occur in relation to the individual.

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

[Name]
[Name]
Date Two of the Commissioners for Her Majesty's Revenue and Customs

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 [XX] of the Finance Act 2013 (c. [XX]) 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 [YY] to the Finance Act 2014 (c. [ZZ]) introduces transitional provisions which provide protection from the lifetime allowance charge ("individual protection 2014") for those who may already have built up pension savings in excess of £1,250,000 in the expectation that the lifetime allowance would remain at £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 individual protection 2014 and make provision for supplementary and incidental matters.

Regulations 3 and 4 make provision about giving that notice. 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 their rights under a relevant arrangement become subject to a pension debit.

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 Impact Note was published on [XX XX] 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.

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

EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES AND RELIEVED NON-UK PENSION SCHEMES (LIFETIME ALLOWANCE TRANSITIONAL PROTECTION) (NOTIFICATION REGULATIONS) 2014
2014 No. [XXXX]

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

2. Purpose of the instrument

2.1 This instrument sets out how an individual must give notice to HMRC if they intend to rely on individual protection 2014 ("IP14") to reduce or eliminate any potential lifetime allowance charge from April 2014 when the lifetime allowance for UK tax relieved pension savings is reduced from £1.5 million to £1.25 million for tax year 2014-15 onwards. It also sets out what happens if the notice is refused or if the individual no longer meets the conditions for IP14.

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

3.1 None.

4. Legislative Context

4.1 Part 4 of the Finance Act 2004 ("the Act") made provision for the taxation of registered pension schemes. The Act introduced an overall limit on the amount of UK tax relieved pension savings that an individual can make, this is known as the LTA (sections 218 to 226 of the Act). Any pension savings that exceed the LTA when benefits are taken are subject to a charge to income tax known as the LTA charge (section 214 of the Act).

4.2 Section 47 of the Finance Act 2013 amends section 218 of the Act and reduces the lifetime allowance from £1.5 million to £1.25 million for the 2014-15 tax year onwards. Part 1 of Schedule x to the Finance Act 2014 introduced a new transitional protection regime, IP14, for those who think they may be affected by the reduction in the LTA and who have total UK tax relieved pension savings of greater than £1.25m on 5 April 2014. IP14 will give individuals a personalised LTA based on the value of their pension savings on 5 April 2014, subject to an overall limit of £1.5 million.

4.3 Paragraph 8 of Schedule x to the Finance Act 2014 provides the power for HMRC to make Regulations specifying how an individual must give notice to HMRC if they want to rely on IP14 or how any other notices in connection with IP14 must be given. Paragraph 9 states that the Regulations may include supplementary or incidental provisions. This is the first time that Regulations have been made using the powers in paragraphs 8 and 9 of Schedule x.

4.4 This instrument is also made under section 251 of the Act which allows HMRC to impose specified information requirements on certain prescribed persons.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 Government provides tax relief on pensions savings to encourage individuals to take responsibility for retirement planning and to recognise that pensions are less flexible than other forms of saving. However, the cost of tax relief net of income tax on pensions has almost doubled over the last decade to an annual cost of around £35 billion by 2011-12. Reform to pensions tax relief is an integral part of the Government's deficit reduction package and as part of these reforms the Government has introduced restrictions to the amount of tax-free pension savings that can be made to ensure that pensions tax relief remains fair, affordable and sustainable.

7.2 The level of the standard lifetime allowance will reduce from its current level of £1.5 million to £1.25 million from the 2014-15 tax year onwards. In recognition that reducing the lifetime allowance creates a potential issue for individuals who may have already built up pension pots in the expectation that the lifetime allowance would remain around its current level of £1.5 million, a transitional protection regime 'fixed protection 2014' has been introduced to support individuals who had already made pension savings decisions based on the current level of the lifetime allowance. Individuals with fixed protection 2014 will have a personalised LTA of £1.5 million but in return they must stop contributing to money purchase schemes and cease to accrue new benefits in defined benefit or cash balance schemes. Fixed protection 2014 however potentially creates a 'cliff-edge' for pension savers (and members of defined benefit schemes in particular), as in effect it requires individuals to opt out of active membership of their scheme and become a deferred member.

7.3 The introduction of IP14 is intended to help those who want the flexibility of continuing to save in their pension scheme but are affected by the reduced lifetime allowance. The option of IP14 will therefore be of particular benefit for those who want to continue saving in their pension scheme after 6 April 2014, albeit that they would have a lower LTA than with fixed protection 2014 and will be subject to LTA charges on the additional savings

7.4 In order to rely on IP14, individuals must apply to HMRC. Where a valid notice is received by HMRC, HMRC will issue a certificate to the individual setting out their personalised lifetime allowance. Individuals must present this certificate to the scheme administrator each time they crystallise any of their pension benefits if they want to benefit from IP14. This instrument sets out the process for individuals to apply for IP14.

- Consolidation

7.5 The instrument does not amend another instrument so consolidation is not an issue.

8. Consultation outcome

8.1 To be completed after consultation.

9. Guidance

9.1 The guidance will be updated at the next available opportunity after the Regulations come into force to reflect the changes.

10. Impact

10.1 The impact on business, charities or voluntary bodies of this instrument is negligible as this instrument provides for information individuals have to provide and what actions HMRC have to take when an individual wishes to rely on IP14.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note (‘TIIN’) concerning IP14 was published alongside the consultation on IP14 on x. This TIIN is available on the HMRC website at www.hmrc.gov.uk/thelibrary/tiins.htm and remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 This instrument applies to small business.

11.2 This instrument applies in the same way to small businesses as it does to any other business. Because of the nature of information to be provided, it would not be appropriate to have different requirements for small businesses

12. Monitoring & review

12.1 The policy will be monitored through information collected from HMRC databases, tax returns, receipts and other statistics.

13. Contact

Paul Cottis at HMRC Tel: 03000 564209 or email: pensions.policy@hmrc.gsi.gov.uk , can answer any queries regarding the instrument.

STATUTORY INSTRUMENTS

2014 No.

INCOME TAX

The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2014

Made - - - -	***
Laid before the House of Commons	***
Coming into force - -	***

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 251 of the Finance Act 2004(**a**) and now exercisable by them(**b**), and section 282(A1) of that Act(**c**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2014 and come into force on [XX] 2014.

(2) The amendments in regulations 2 to 5 have effect for the tax year 2014-15 and subsequent years.

Amendment of the Registered Pension Schemes (Provision of Information) Regulations 2006

2. The Registered Pension Schemes (Provision of Information) Regulations 2006(**d**) are amended as follows.

3. In regulation 2(1) (interpretation) after the definition of "fixed protection 2014"(**e**) insert—

> ""individual protection 2014" means transitional protection provided for under Part 1 of Schedule [YY] to the Finance Act 2014(**f**).".

4.—(1) The table appended to regulation 3(1) (provision of information by scheme administrator to the Commissioners) is amended as follows.

(2) In entry 6 (benefit crystallisation events and enhanced lifetime allowance, enhanced protection, fixed protection or fixed protection 2014)(**g**)—

(**a**) 2004 c. 12; section 251(4) was amended by paragraph 47 of Schedule 10 to the Finance Act 2005 (c. 7) and section 251(5)(aa) was inserted by section 49 of the Finance Act 2010 (c. 13).
(**b**) 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.
(**c**) Section 282(A1) was inserted by section 75(1) of the Finance Act 2009 (c. 10).
(**d**) S.I. 2006/567, amended by S.I. 2011/301, 2011/1797, 2013/[ZZ]; there are other amending instruments but none is relevant.
(**e**) The definition of "fixed protection 2014" was inserted by S.I. 2013/[ZZ].
(**f**) [Insert chapter number.]
(**g**) Entry 6 has been amended by S.I. 2011/301, 2011/1797, 2013/[ZZ].

(a) in the heading, for “or fixed protection 2014” substitute “, fixed protection 2014 or individual protection 2014”,

(b) in the first column omit “or” at the end of paragraph (b)(iii) and insert at the end of paragraph (b)(iv)—

“, or

(v) individual protection 2014.”, and

(c) in the second column omit “or” at the end of paragraph (b) and insert at the end of paragraph (c)—

“, or

(d) the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014(**a**) (where the member relies on individual protection 2014).”.

5. Regulation 11 (information provided by member to scheme administrator: enhanced lifetime allowance, enhanced protection, fixed protection or fixed protection 2014)(**b**) is amended as follows—

(a) in the heading, for “or fixed protection 2014” substitute “, fixed protection 2014 or individual protection 2014”,

(b) omit “or” at the end of paragraph (b) and insert at the end of paragraph (c)—

“, or

(d) individual protection 2014 by virtue of Part 1 of Schedule [YY] to the Finance Act 2014”, and

(c) after “Regulations 2013” insert “or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014”.

[Name]
[Name]
Date Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567) (“the Principal Regulations”).

The amendments are consequential on the amendments to Part 4 of the Finance Act 2004 (c. 12) made by the Finance Act 2013 (c. [XX]) which reduce the pensions lifetime allowance from £1,500,000 to £1,250,000 with effect from 6 April 2014.

Transitional protection (“individual protection 2014”) is provided by Part 1 of Schedule [YY] to the Finance Act 2014 (c. [ZZ]) for individuals who think they are likely to exceed the reduced lifetime allowance when they become entitled to their pension benefits and who would otherwise face a lifetime allowance charge on the excess. Individuals must apply for individual protection 2014 on or before 5 April 2017.

Regulation 1 provides that the amendments made by this instrument have effect for the tax year 2014-15 and subsequent years. Power to make legislation with retrospective effect is contained in

(**a**) [Insert S.I. number.]
(**b**) Regulation 11 was substituted by S.I. 2011/1797 and amended by S.I. 2013/[ZZ].

section 282(A1) of the Finance Act 2004, which allows regulations made under Part 4 of that Act (including under section 251) to include provision having effect in relation to times before they are made if that provision does not increase any person's liability to tax.

Regulation 3 inserts a definition of individual protection 2014 into the Principal Regulations.

Regulation 4 adds references to individual protection 2014 in entry 6 in the table appended to regulation 3(1) of the Principal Regulations.

Regulation 5 amends regulation 11 of the Principal Regulations so that if a member of a registered pension scheme intends to rely on individual protection 2014, the member must give to the pension scheme administrator the reference number issued by HM Revenue and Customs under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014 (S.I. 2014/[XXX]).

A Tax Information Impact Note was published on [XX XX] 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.

EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (PROVISION OF INFORMATION) (AMENDMENT) REGULATIONS 2014

2014 No. [XXXX]

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and 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 Regulations"), as a consequence of the introduction of individual protection 2014 ("IP14") in the Finance Act 2014 ("FA 2014"). This instrument prescribes the information requirements for scheme administrators and individuals where an individual wants to rely on IP14 to reduce or eliminate a lifetime allowance ("LTA") charge.

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

3.1 None.

4. Legislative Context

4.1 Part 4 of Finance Act 2004 ("the Act") made provision for the taxation of registered pension schemes. The Act introduced an overall limit on the amount of UK tax relieved pension savings that an individual can make, this is known as the LTA (sections 218 to 226 of the Act). Any pension savings that exceed the LTA are subject to a charge to income tax known as the LTA charge (section 214 of the Act).

4.2 Section 47 of FA 2013 amends section 218 of the Act and reduces the lifetime allowance from £1.5 million to £1.25 million for the 2014-15 tax year onwards. Section x of FA 2014 introduced a new transitional protection regime, IP14, for those who think they may be affected by the reduction in the LTA and who have total UK tax relieved pension savings of greater than £1.25m on 5 April 2014. IP14 will give individuals a personalised LTA based on the value of their pension savings on 5 April 2014, subject to an overall limit of £1.5 million. The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014 (S.I. 2014/xxxx) set out how and when individuals may apply for IP14 and the conditions for maintaining this transitional protection.

4.3 Section 251 of the Act provides that HMRC may make provision in Regulations requiring persons of a prescribed description to provide information to HMRC or other persons of a prescribed description, in relation to matters relating to registered pension schemes. This instrument is made under section 251 and imposes the information requirements for individuals and pension scheme administrators where an individual has IP14 and wants to use their IP14 certificate setting out their personalised LTA when they crystallise some or all of their pension savings. The information requirements are similar to those that apply where an individual relies on earlier forms of LTA transitional protection.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 Government provides tax relief on pensions savings to encourage individuals to take responsibility for retirement planning and to recognise that pensions are less flexible than other forms of saving. However, the cost of tax relief net of income tax on pensions has almost doubled over the last decade to an annual cost of around £35 billion by 2011-12. Reform to pensions tax relief is an integral part of the Government's deficit reduction package and as part of these reforms the Government has introduced restrictions to the amount of tax-free pension savings that can be made to ensure that pensions tax relief remains fair, affordable and sustainable.

7.2 The level of the standard LTA will reduce from its current level of £1.5 million to £1.25 million from the 2014-15 tax year onwards. In recognition that reducing the LTA creates a potential issue for individuals who may have already built up pension savings in the expectation that the LTA would remain at its current level of £1.5 million, the Government introduced a transitional protection regime 'fixed protection 2014' to support individuals who had already made pension savings decisions based on the current level of the LTA. Individuals with fixed protection 2014 will have a personalised LTA of £1.5 million but in return they must stop contributing to money purchase schemes and cease to accrue new benefits in defined benefit or cash balance schemes.

7.3 Fixed protection 2014 potentially creates a 'cliff-edge' for pension savers (and members of defined benefit schemes in particular), as in effect it requires individuals to opt out of active membership of their scheme and become a deferred member. The option of IP14 will therefore be of particular benefit for those who want to continue saving in their pension scheme after 6 April 2014, albeit that they would have a lower LTA than with fixed protection 2014 and will be subject to LTA charges on any additional savings

7.4 In order to monitor compliance with IP14, the instrument being made sets out the information that scheme administrators and individuals must provide in connection with IP14.

- Consolidation

7.5 There are no plans to consolidate the instrument that is being amended.

8. Consultation outcome

8.1 To be completed after consultation.

9. Guidance

9.1 The guidance will be updated at the next available opportunity after the Regulations come into force to reflect the changes.

10. Impact

10.1 This instrument will impact on business, charities or voluntary bodies where they are a registered pension scheme, as it introduces new reporting requirements for pension scheme administrators in specified circumstances. Further information about this can be found in the Tax Information and Impact Note .

10.2 The impact on the public sector is the same as for other businesses.

10.3 A Tax Information and Impact Note ('TIIN') concerning IP14 was published alongside the consultation on IP14 on x. This TIIN is available on the HMRC website at www.hmrc.gov.uk/thelibrary/tiins.htm and remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 This instrument applies to small business.

11.2 This instrument applies in the same way to small businesses as it does to any other business. Because of the nature of information to be provided, it would not be appropriate to have different requirements for small businesses

12. Monitoring & review

12.1 The policy will be monitored through information collected from HMRC databases, tax returns, receipts and other statistics.

13. Contact

Paul Cottis at HMRC Tel: 03000 564209 or email: pensions.policy@hmrc.gsi.gov.uk , can answer any queries regarding the instrument.

Annex C: Tax Information and Impact Note

This draft Tax Information and Impact Note (TIIN) represents the Government's current understanding of the impact of this measure. This information will be updated to take into account responses to this consultation and a revised TIIN will be published alongside revised draft legislation later in 2013.

Pensions lifetime allowance: Individual protection

Who is likely to be affected?

Individuals who expect to have UK tax relieved pension savings of more than £1.25 million by April 2014, as well as pension scheme administrators and employers who have scheme members or employees in this position.

General description of the measure

The measure will protect pension savers who think they may be affected by the reduction in the lifetime allowance from April 2014. A transitional protection regime, individual protection 2014 (IP14), is being introduced. IP14 will protect any UK tax relieved pension savings that an individual has built up at 5 April 2014 up to an overall limit of £1.5 million.

Policy objective

The Government's objective is a system of pensions tax relief that is fair, affordable and sustainable.

The introduction of IP14 alongside fixed protection 2014 (FP14) is intended to give individuals greater flexibility in how they protect pension savings that they have built up before 6 April 2014 from the lifetime allowance charge.

Background to the measure

At the Autumn Statement 2012, the Government announced that it will reduce the lifetime allowance from £1.5 million to £1.25 million for the 2014-15 tax year onwards. The Government also announced that FP14 will be offered to individuals to prevent retrospective tax charges arising as a result of the reduction in the lifetime allowance and that they would discuss with stakeholders whether to also offer an individual protection regime in addition to this.

Following informal discussions with interested parties, at Budget 2013, the Government announced that an individual protection regime would be offered in addition to FP14 and that a consultation on the detail of IP14 would be undertaken in Spring 2013.

The consultation on IP14 was published on 10 June 2013.

Detailed proposal

Operative date

IP14 will have effect from tax year 2014-15 onwards.

Current law

The current pensions tax rules for registered pension schemes came into force on 6 April 2006 (A-day) and are set out in Part 4 of the Finance Act (FA) 2004.

Although there are no limits to how much can be saved in registered pension schemes, there is an overall limit known as the lifetime allowance (section 218 of FA 2004), on the total amount of tax relieved pension savings that an individual can have over their lifetime. The standard lifetime allowance will be reduced from £1.5 million to £1.25 million for tax year 2014-15 onwards (clause 47 of Finance Bill 2013).

Tax relief on any pension benefits taken over the lifetime allowance is recovered by the application of the lifetime allowance tax charge to the excess. The rate of the lifetime allowance charge is 25 per cent if the excess is taken as a pension or 55 per cent if it is taken as a lump sum (sections 214 and 215 of FA 2004).

The lifetime allowance also applies to any savings individuals have built up with UK tax relief where they are a relieved member of a relieved non-UK pension scheme (paragraphs 13 to 19 of Schedule 34 to FA 2004).

To protect individuals with UK tax relieved pension savings of more than £1.25 million or who think they may have savings in excess of £1.25 million by the time they take their pension benefits, a transitional protection regime, FP14, is being introduced (Schedule 21 to Finance Bill 2013). Individuals will need to notify HM Revenue & Customs (HMRC) by 5 April 2014 if they want to rely on FP14. Individuals with FP14 will be entitled to a personal lifetime allowance of the greater of £1.5 million and the standard lifetime allowance. To maintain FP14 individuals will need to stop saving into money purchase schemes and savings in defined benefit schemes cannot increase above a specified rate. In effect this requires most individuals with FP14 to become a deferred member of their pension scheme(s).

Proposed revisions

IP14 will be introduced in addition to FP14.

IP14 will be available to any individual with total UK tax relieved pension savings of greater than £1.25 million on 5 April 2014 providing that they don't have enhanced or primary protection.

Individuals with IP14 will have a personalised LTA of the value of their pension savings on 5 April 2014 subject to an overall limit of £1.5 million. Individuals with IP14 will be able to carry on actively saving in a registered pension scheme, should they so wish, but would be subject to the LTA charge on any excess savings over their personalised LTA when they take their benefits.

Individuals will be able to apply for both FP14 and IP14. Where an individual holds both FP14 and IP14, FP14 will take precedence, but should this be lost the individual will revert to IP14.

Individuals will be able to apply for IP14 after 6 April 2014 and applications must be received by HMRC by 5 April 2017.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18
	+ 0	+ 100	+ 80	+ 50	+ 0
Economic impact	This measure is not expected to have any significant economic impacts.				

Impact on individuals and households	IP14 provides individuals, who have pension savings above £1.25 million, with a more flexible method of protecting pension savings already accrued from any retrospective tax charges. It is estimated that about 120,000 individuals will have pension savings above £1.25 million in April 2014. Of these, those who don't have enhanced or primary protection will be eligible to apply for IP14.
Equalities impacts	HMRC data does not allow identification of groups sharing protected characteristics within the affected population. However the nature of the change means that those affected are likely to be in higher income groups so are less likely to be from ethnic minority groups, female or disabled. The change will have a greater effect on those nearing retirement than those in other age groups. No other impacts are anticipated in respect of groups sharing other protected characteristics.
Impact on business including civil society organisations	This measure is likely to impose some additional burdens on the pensions industry. However, stakeholder discussions have suggested these would be limited. These will come from having to check and provide valuations to individuals who want to apply for IP14 and checking certificates and providing information to HMRC where an individual relies on IP14.
Operational impact (£m) (HMRC or other)	There will be additional costs for HMRC of £1 million to administer and monitor the new protection regimes and deal with enquiries from customers.
Other impacts	Small firms impact test: the impact on small firms has been considered. This measure introduces a transitional protection regime to protect any UK tax relieved pension savings that an individual has built up at 5 April 2014. It would not be appropriate for the measure to apply differently according to the size of the firm within which the affected workers operate. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be kept under review through communication with affected taxpayer groups. HMRC will also monitor the volume of applications for IP14.

Further advice

If you have any questions about the policy for this change, please contact Paul Cottis on 03000 564209 or email: pensions.policy@hmrc.gsi.gov.uk.

Declaration

Sajid Javid MP, Economic Secretary to the Treasury has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.