HM Revenue
& Customs

Pension Flexibility:
Transitional issues associated with the pension changes that came into force on 27 March 2014

Draft Guidance Note
17 July 2014

Index

Summary 3
1. Individual who has not yet received any benefits 4
1.1 What does this mean for individuals who have not yet taken any benefits? 4
1.2 What happens if I die before 6 October 2015 and before taking my associated pension? 4
1.3 What about if I want to take my remaining benefits as a taxed lump sum after 5 April 2015? 4
2. Repayment of Lump Sums 6
2.1 How do the changes affect individuals who have repaid their PCLS? 6
2.2 What does this mean in practice? 6
3. Temporary extension of period when a PCLS can precede a pension 7
3.1 When does the extension apply? 7
3.2 What arrangements does it apply to? 7
3.3 When will the Benefit Crystallisation Event ("BCE") for the PCLS occur? 7
3.4 What is the maximum that can be paid as a PCLS in these circumstances? 8
4. Temporary relaxation to allow transfer of rights after a PCLS is paid 10
4.1 When does the relaxation apply? 10
4.2 What arrangements does it apply to? 10
4.3 When will the benefit crystallisation event ("BCE") for the PCLS occur? 10
4.4 What does this mean for the scheme administrators? 11
4.5 Can more than one pension be paid? 12
4.6 What is the maximum amount that can be paid as a PCLS? 12
5. Trivial commutation lump sums paid after an intended PCLS 16
5.1 What are the changes? 16
5.2 When do the changes apply? 16
5.3 What type of authorised payment is the intended PCLS (earlier sum)? 17
5.4 Are there any changes to the normal conditions for a payment to be a trivial commutation lump sum in these circumstances? 17
5.5 So how will the trivial commutation lump sum be taxed? 17
5.6 When do these changes apply from? 18
6. Small pots paid as lump sums after an intended PCLS 19
6.1 What are the changes? 19
6.2 When do the changes apply? 19
6.3 What type of authorised payment is the intended PCLS (earlier sum)? 20
6.4 So how will the commuted small pot be taxed? 20
7. Preservation of Protected Pension Age 21
7.1 What is the change? 21
7.2 What are the conditions? 21
8. Protected Tax-free Lump Sums 23
8.1 What are the changes? 23
8.2 What are the changes for scheme specific protected lump sums? 23
8.3 What are the changes for protected lump sums of over £375,000 with enhanced protection? 24
9. Summary of new reporting requirements 25
10. Glossary 26

Summary

For your pension commencement lump sum (sometimes called a tax-free lump sum) to be paid tax-free you must within, certain time-limits, have a pension associated with the lump sum. The changes described in this guidance allow you longer to decide how to access that pension. These special rules are temporary and you will need to take your pension commencement lump sum ("PCLS") before 6 April 2015 and the associated pension before 6 October 2015 for these rules to apply. Depending on how you want to access your remaining pension savings after taking your PCLS you may have to wait until further new rules take effect from 6 April 2015.

This guidance provides more detail about these temporary changes. It does not cover the changes that will take effect from 6 April 2015. There is a glossary of the main terms used at the end of this guidance.

Legislation has been included in Finance Bill 2014 to

- allow the pension associated with a PCLS that is paid before 6 April 2015 to be paid no later than 5 October 2015, in respect of a money purchase arrangement;
- allow the funds intended to provide a pension associated with a PCLS that is paid before 6 April 2015 to be transferred to and paid from a different scheme to the PCLS, in respect of a money purchase arrangement;
- ensure that where the associated pension is paid from a different scheme to the PCLS under the bullet point above, any right to a protected pension age or protected lump sum is preserved as part of the transfer;
- ensure that where an intended PCLS received before 6 April 2015 from a money purchase arrangement is repaid to the scheme before 6 October 2015, it is treated for all tax purposes as if it had never been paid;
- allow a member who has received a PCLS before 27 March 2014 to commute the uncrystallised expected pension to a lump sum under the trivial commutation or small pots rules providing they meet the other conditions;
- ensure that where a member receives a PCLS in respect of a money purchase arrangement and dies before taking the expected pension under these transitional provisions, the PCLS will continue to be an authorised payment;
- modify the scheme administrator reporting and scheme sanction charge rules in certain circumstances relating to the above changes.

1. Individual who has not yet received any benefits

1.1 What does this mean for individuals who have not yet taken any benefits?

If you haven't taken any benefits yet from your scheme, you may be able to take advantage of the changes that came into force from 27 March 2014, in the circumstances set out in the link below.

Individuals who can take advantage of the 27 March 2014 flexibilities

If you have reached age 55 and have not yet taken any of your benefits, the only change as a result of the new legislation is that for money purchase arrangements you can access your PCLS now and you will have longer than 6 months to become entitled to the associated pension.

You must still become entitled to the associated pension before 6 October 2015 if you take your PCLS on or before 5 April 2015. This means that individuals in this position can take their tax-free lump sum now and delay taking their pension until up to 6 months after 5 April 2015. If your scheme does not offer this option of deferring the decision of how to access your pension, you can consider transferring your remaining pension savings to another registered pension scheme. There is more about this on the link below.

Temporary extension of period when a PCLS can precede a pension

If you take your PCLS on or after 6 April 2015 then you must take your associated pension within 6 months of being paid the PCLS, if the PCLS is to remain tax-free.

To use the provisions for the trivial commutation lump sum and the small pots lump sum you will have to have reached age 60.

1.2 What happens if I die before 6 October 2015 and before taking my associated pension?

If you die before 6 October 2015 without taking your associated pension, the PCLS will be treated as an authorised payment and no tax will be due in respect of it. The funds that had been set aside for the payment of the pension will not have been crystallised and therefore can be paid as an uncrystallised funds lump sum death benefit.

1.3 What about if I want to take my remaining benefits as a taxed lump sum after 5 April 2015?

If you have taken your PCLS now but want to take advantage of the new flexibility available from 6 April 2015 you could receive the remainder of your pension savings as a single payment or as a series of payments taxed at your marginal rate, providing you become entitled to the pension before 6 October 2015. The intention is that any further payment will be treated as taxable pension income and therefore the intended PCLS will have an associated pension. It will therefore meet the conditions to be a PCLS.

The legislation for the flexibility changes that will apply from April 2015 will be included in a new Bill, expected to be introduced by the Government in autumn 2014. This guidance note is therefore not intended to cover the changes from April 15.

2. Repayment of Lump Sums

2.1 How do the changes affect individuals who have repaid their PCLS?

Where you have received an intended PCLS from a money purchase arrangement in expectation of receiving a pension from that arrangement, and subsequently you repay the lump sum to the original pension scheme, then in certain circumstances the pensions tax legislation will treat the lump sum as never having been paid to you. The repayment you make will not be treated as a contribution.

This applies where the payment that was intended to be a PCLS was paid before you became entitled to the expected pension, and either

- on or after 19 September 2013 but before 6 April 2015 or
- before 19 September 2013 where a lifetime annuity contract is entered into, and on or after 19 March 2014 that contract is cancelled.

In addition the repayment must be made

- before the member becomes entitled to the expected pension and
- before 6 October 2015

2.2 What does this mean in practice?

Where this applies, then the lump sum you received and repaid will not be treated as a BCE6. As a result you may still take a PCLS of up to 25% of your pension rights when you actually come to take your benefits. Alternatively, provided you meet all of the requirements, you can take your total pension rights of £30,000 or less as a trivial commutation lump sum. You can also take rights of £10,000 or less as a small pots lump sum where all of the requirements are met.

If you repay the lump sum it will not be a contribution so you will not be entitled to any tax relief on the repayment, nor will it use up any of your annual allowance. Also, as the repayment is not a contribution, this will not result in the loss of enhanced or fixed protection (2012 or 2014) as benefit accrual/relevant benefit accrual will not be triggered by the repayment.

3. Temporary extension of period when a PCLS can precede a pension

3.1 When does the extension apply?

Normally, to be a PCLS, the member must become entitled to the associated pension no more than 6 months after the PCLS is paid. To enable individuals to take full advantage of the new flexibilities, this period has been extended for money purchase arrangements in prescribed circumstances, so providing that the entitlement to the associated pension occurs before 6 October 2015, the PCLS will be an authorised payment and remain tax-free.

This applies where the payment that is intended to be a PCLS is paid

- on or after 19 September 2013 but before 6 April 2015, or
- before 19 September 2013 where a lifetime annuity contract is entered into, and on or after 19 March 2014 that contract is cancelled.

This applies to you if

- at Budget day on 19 March 2014 you had received a PCLS but had not yet become entitled to a pension, or
- at Budget day on 19 March 2014 you had received a PCLS and had become entitled to a pension in the form of a lifetime annuity, but cancelled the contract within the cancellation period, or
- you receive a PCLS on or after Budget day (19 March 2014) but before 6 April 2015.

3.2 What arrangements does it apply to?

The extended period only applies where the lump sum that is intended to be a PCLS is paid from a money purchase arrangement. This includes cash balance arrangements. The associated pension can be paid from a money purchase or a defined benefit arrangement.

3.3 When will the Benefit Crystallisation Event ("BCE") for the PCLS occur?

The point when the BCE for the PCLS arises will not change. You will become entitled to the PCLS immediately before you become entitled to the pension and a BCE 6 will be treated as occurring on that date.

If the entitlement to the associated pension arises before Royal Assent of Finance Act 2014, but is not within 6 months of the date the PCLS was paid, then until Royal Assent of Finance Act 2014 the PCLS will not be an authorised payment. Once the Finance Bill has Royal Assent, the change will be treated as coming into force on 19 March 2014 and then subject to the conditions being met the payment will be an authorised PCLS to which the member became entitled to immediately before they became entitled to the associated pension.

This does mean that the BCE for the PCLS may occur in a different tax year from the tax year in which the PCLS is paid. Whilst that situation can occur under the normal rules, extending the time for the entitlement to the associated pension to arise means this is now more likely to occur. So potentially you could have a PCLS paid in the tax year beginning 6 April 2013 where the BCE does not occur until the tax year beginning 6 April 2015.

3.4 What is the maximum that can be paid as a PCLS in these circumstances?

Where the PCLS is paid more than six months before the connected pension the maximum PCLS should continue to be calculated in the same way as at present under paragraphs 1 to 3A of Schedule 29 Finance Act 2004 (FA04), except that it should be calculated by reference to the expected pension.

Where a lifetime annuity has been purchased and cancelled, the applicable amount should be based on the cancelled annuity purchase price. Otherwise, when calculating the applicable amount, the amount of the pension should be based on the expected pension at the time the maximum PCLS calculation is carried out on the assumption that the member would become entitled to that expected pension on the same day as the lump sum is paid.

Where at the time of the calculation of the PCLS, no decision has yet been made on whether the pension will be a scheme pension, a lifetime annuity or a drawdown pension then the maximum PCLS will still normally be a quarter of the total of the funds that are intended to be used to provide the PCLS plus the value of associated pension. This will apply regardless of the final form of pension that is provided and scheme administrators should therefore notionally designate which type of pension the expected pension would be and carry out the calculation on this basis.

See RPSM09104200 for further information about calculating the maximum PCLS

No further PCLS will be payable in respect of those funds when the actual pension is paid. This applies even if these funds grow before the entitlement to the actual pension arises.

Likewise, the maximum amount won't change should the fund fall in value before the associated pension is paid, so that providing the entitlement to the associated pension arises before 6 October 2015, then the PCLS will be an authorised payment even though it may represent more than one-third of the actual associated pension.

Example 1 - Individual has taken a PCLS expecting to take a pension with it.

At age 57, Carl has a defined contribution arrangement with £60,000 in the fund. On 1 March 2014 he took a PCLS of £15,000 and the remaining funds were used to buy an annuity. On hearing the announcement at Budget, Carl decided to cancel the annuity within the cooling off period and consider his options.

As the annuity has been cancelled, he has not yet become entitled to a pension and therefore there has not been a BCE 6 in respect of the intended PCLS.

Carl however must before 6 October 2015 become entitled to a pension in respect of the £45k that he originally used to purchase the annuity or the PCLS will be an unauthorised payment.

On 1 November 2014 Carl then decides that he wants to designate his remaining funds as available for drawdown although these are now worth only £44,000. This will be a BCE 1. Because the PCLS was paid more than six months before the connected pension the amount of the PCLS was based on the expected value of the pension at the time the PCLS was paid, even though it is more than the permitted maximum had it been based on the actual pension, the full amount of the PCLS of £15,000 is an authorised payment. A BCE 6 in respect of this arises immediately before the BCE 1.

Example 2 - Individual has taken a PCLS but wants to wait until after April 2015 before deciding what pension to take.

In May 2014 Catherine, age 64, has a cash balance arrangement which is valued at £240,000. She wants to access her PCLS now but is unsure of her options for taking her pension and wants to wait until after April 2015 before making a final decision.

In order to calculate the maximum PCLS that Catherine can have, her scheme administrator needs to designate what her expected pension would be. They agree that the expected pension will be a lifetime annuity. The maximum that can be paid as a PCLS is therefore calculated in accordance with paragraph 3(3) of Schedule 29 FA04, but on the assumption that the funds not used to provide a PCLS would have been applied to purchase a lifetime annuity. This is the expected pension. Catherine is paid a PCLS of £60,000 leaving remaining £180,000 remaining to provide the expected pension.

When Catherine comes to take her pension in June 2015 she decides to designate her funds as available for drawdown (her actual pension). The PCLS will be an authorised payment providing the entitlement to the pension arises before 6 October 2015. Catherine's remaining funds which are designated for drawdown have grown to £200,000, although she has made no further contributions. Catherine cannot however have any further PCLS based on the actual pension as she opted to have her PCLS based on the expected pension.

Although Catherine received the PCLS in May 2014 it becomes a BCE 6 in June 2015 when she takes her pension (which is a BCE 1). Her PCLS and pension are therefore tested against her remaining lifetime allowance in June 2015. If her pension scheme needs to report anything to HMRC in connection with the BCE 1 or the BCE 6 this should be done on the Event Report for tax year 2015-16 that is due by 31 January 2017.

4. Temporary relaxation to allow transfer of rights after a PCLS is paid

4.1 When does the relaxation apply?

Normally, the associated pension must be paid from the same pension scheme as the PCLS. There is a temporary relaxation of this rule where the intended PCLS is paid from a money purchase arrangement in the following circumstances:

- you received a PCLS on the basis that an authorised pension, i.e. income withdrawal, a lifetime annuity or scheme pension, would have been paid to you under the scheme that paid you the PCLS
- before 6 October 2015 you have not repaid the lump sum
- you become entitled to that pension in another pension scheme following a recognised transfer of the uncrystallised rights that represent the sums and assets of that were expected to pay the pension
- you become entitled to the actual pension (which must be income withdrawal, a lifetime annuity or scheme pension) under the receiving scheme before 6 October 2015, and
- all of the sums and assets that were transferred are used to provide the actual pension.

This relaxation applies where your PCLS was paid in the expectation of a pension being paid from the scheme, and an amount up to the maximum amount that could be paid as the PCLS was calculated and paid on this basis. In these circumstances your PCLS will still be a tax-free authorised payment.

As this relaxation is temporary it applies only where the payment that is intended to be a PCLS is paid

- on or after 19 September 2013 but before 6 April 2015 or
- before 19 September 2013 where a lifetime annuity contract is entered into, and on or after 19 March 2014 that contract is cancelled.

4.2 What arrangements does it apply to?

The relaxation only applies where the lump sum that is intended to be a PCLS is paid from a money purchase arrangement. This includes cash balance arrangements. The associated pension can be paid from a money purchase or a defined benefit arrangement.

4.3 When will the benefit crystallisation event (“BCE”) for the PCLS occur?

The point when the BCE for the PCLS arises will not change. You will become entitled to the PCLS immediately before you become entitled to the pension and a BCE 6 will be treated as occurring on that date.

If more than one pension is paid, the entitlement to the PCLS will arise immediately before the entitlement to the last pension arises.

This does mean that the BCE for the PCLS may occur in a different tax year from the tax year in which the PCLS is paid. Whilst that situation can occur under the normal rules, extending the time for the entitlement to the associated pension to arise means this is now more likely to occur. So potentially you could have a PCLS paid in the tax year beginning 6 April 2013 where the BCE does not occur until the tax year beginning 6 April 2015.

4.4 What does this mean for the scheme administrators?

For the scheme administrator of the transferring scheme

As the entitlement to the PCLS does not arise until after the funds for the expected pension have been transferred, the receiving scheme administrator will need information from the transferring scheme to enable them to carry out their duties. The scheme administrator of the transferring scheme must tell the scheme administrator of the receiving scheme within 30 days of the transfer (or 3 September 2014 if later)

- the amount of the intended PCLS,
- the date of payment of the intended PCLS,
- the total of the sums and assets held at the time the intended PCLS was paid, for the purpose of providing the expected pension, and
- (in a statement) that no further PCLS can be paid in connection with the expected pension.

The transferring scheme administrator will then normally have no further requirements to fulfil in connection with the intended PCLS.

However if the PCLS exceeds the permitted maximum as determined by the expected pension, the excess is an unauthorised payment and the scheme administrator of the transferring scheme must report this to HMRC as a reportable event 1 on the Event Report. For this purpose, the unauthorised payment is treated as occurring on the date the lump sum is paid. The transferring scheme administrator is also liable for any scheme sanction charge in respect of the payment.

For the scheme administrator of the receiving scheme

For the purposes of providing the BCE statement to the member the PCLS is treated as arising in the receiving scheme. The scheme administrator of the receiving scheme must include the details of the PCLS together with the expected pension in the annual BCE statement that is sent to the member.

If funds are subsequently transferred to another registered pension scheme or an insurer, the scheme administrator must provide information to the new scheme administrator or insurer in respect of both the PCLS and any crystallised pension. (See RPSM12305010 for information that must be provided where funds are transferred between registered pension schemes and RPSM12306002 and RPSM12306010 for information that must be given to an insurer.)

Where reportable events 6 (BCEs and enhanced lifetime allowance, enhanced protection ("EP") or fixed protections), 7 (PCLS) or 8 (PCLS: primary protection and EP) apply they are also responsible for reporting the required information to HMRC in connection with the PCLS.

Where the associated pension is not paid before 6 October 2015, then the intended PCLS will be an unauthorised payment. For the purpose of reporting the payment unauthorised payment is treated as being paid on 6 October 2015 by the receiving scheme. The scheme administrator of the receiving scheme must report this to HMRC as a reportable event 1 on the Event Report for 2015-16 by 31 January 2017. The receiving scheme administrator will also be liable for any scheme sanction charge in respect of this payment.

4.5 Can more than one pension be paid?

Yes, providing that all the transferred sums and assets plus any funds derived from them are used to provide the one or more pensions before 6 October 2015, the whole of the PCLS paid will be an authorised payment and tax-free.

4.6 What is the maximum amount that can be paid as a PCLS?

The maximum PCLS should continue to be calculated in the same way as at present under paragraphs 1 to 3A of Schedule 29 Finance Act 2004 (FA04). However the exact calculation depends on the gap between the PCLS payment date and when the member actually becomes entitled to the connected pension.

Where the lump sum is paid within six months of the entitlement to the actual pension, the maximum PCLS should be calculated by reference to the actual pension.

Where the lump sum is paid more than six months before the entitlement to the actual pension, the calculation should be by reference to the expected pension.

See What is the maximum that can be paid as a PCLS in these circumstances?

Example 3

Pam at age 56, has £40,000 in a money purchase arrangement under Scheme A. She has taken £10000 as a PCLS on 1 April 2014 with the remaining £30,000 intended to be used to provide an annuity. Pam decides she wants to take advantage of the new flexibilities, but her current scheme is unlikely to offer what she wants. In July 2014 Pam decides to transfer the £30,000 to scheme B.

The scheme administrator for scheme A needs to tell the scheme administrator for scheme B the amount of the intended PCLS, the total value of the sums and assets held to pay the expected pension and the date of payment. The scheme administrator of scheme A must also provide a statement to the effect that no further PCLS is allowed in respect of the expected pension. This information must be given to the scheme administrator of scheme B by 3 September 2014; although this date is more than 30 days after the transfer it is the earliest required date.

The value of the fund in scheme B has grown to £32,000 through investment growth by the time when Pam takes her pension on 15 May 2015. The whole of the £32,000 must be used to provide a pension and no further PCLS is due.

There is a BCE 6 in connection with the PCLS of £10,000 which arises on 15 May 2015. Scheme Administrator B must send Pam a BCE statement for this BCE as well as one for the pension.

Example 4

The circumstances are as in example 1, but Pam contributes a further £5,000k to scheme B so that with investment growth on those contributions her funds in scheme B are worth £38,000 on 15 March 2015.

Pam must still take the £32,000 (amount transferred plus investment growth on those funds) as a pension. A further PCLS of £1,500 may be taken from the remaining £6,000 (contribution plus investment growth on those funds) when a pension is taken from those funds.

Example 5

Sajid is a member of a pension scheme (scheme A) where he has a defined benefit pension with a value of £240,000 and a defined contribution arrangement with a value of £160,000. Following his 60th birthday, Sajid has decided he wants to take the maximum PCLS for all his funds within the scheme from his defined contribution arrangement and takes a PCLS of £100,000 in July 2014 with the remainder of the defined contribution fund being used to buy an annuity and the defined benefit scheme paying a pension of £12,000 per annum. Sajid's scheme pension starts in September 2014.

However Sajid then changes his mind and decides to transfer the remaining £60,000 from his defined contribution arrangement to a new scheme (scheme B) that will offer more flexible access. The transfer is made on 1 September 2014.

Although he has received a PCLS of £100,000, the maximum PCLS that he can have in respect of the amount transferred will be £20,000. The other £80,000 of the PCLS will be authorised when the DB pension comes into payment provided all of the standard requirements for the lump sum to be a PCLS are met.

The scheme administrator for scheme A (the paying scheme) must therefore tell the scheme administrator of scheme B (the receiving scheme) that they have paid a PCLS of £20,000 in respect of the transfer, the date of payment, and that the total value of he sums and assets held to pay the expected pension was £60,000. Scheme administrator A must also give scheme administrator B a statement to the effect that no further PCLS is allowed in respect of the expected pension. This information must be given to the scheme administrator of scheme B within 30 days of the transfer. That is by 1 October 2014.

Scheme A administrator will also need to include details of the BCE 6 in respect of the of £80,000 PCLS that arises when the scheme pension entitlement arises in their scheme in September 2014 in the annual BCE statement sent to the member..

Scheme Administrator B must include details of the £20,000 BCE 6 as well as BCE details for the pension that is paid from scheme B as part of the annual BCE statement sent to Sajid when he becomes entitled to the associated pension from scheme B,.

Example 6

The circumstances are as example 5 but Sajid only takes a PCLS of £80,000 from his defined contribution scheme, and this is paid in connection with the defined benefit pension. The remaining £80,000 from the defined contribution arrangement is uncrystallised and if it was transferred to scheme B then a PCLS of £20,000 could be paid from scheme B in respect of those funds. This is because the £80,000 PCLS is an authorised payment under the normal rules and isn't affected by the temporary extension to PCLS payment rules.

As the transfer is only of uncrystallised funds, scheme administrator A does not need to report to scheme B any details about the PCLS paid from scheme A.

Example 7

Kitty, 59, has £640,000 in a money purchase arrangement under Scheme A. She has taken £160,000 as a PCLS on 1 June 2014 and then decides she wants to use the remaining £480,000 to provide drawdown. As Kitty's current scheme does not offer what she wants Kitty decides to transfer the £480,000 to scheme B.

The scheme administrator for scheme A must tell the scheme administrator for scheme B the amount of the intended PCLS, the total value of the sums and assets held to pay the expected pension, the date of payment and provide a statement to the effect that no further PCLS is allowed in respect of the expected pension. This information muse be provided within 30 days of the transfer (or 3 September 2014 if later).

Kitty then decides she wants to use £420,000 to provide a lifetime annuity with the remainder being designated as available for drawdown. Kitty becomes entitled to the lifetime annuity on 1 September 2015 and the remaining funds are designated for drawdown on 15 September 2015. The entitlement to the PCLS will arise immediately before the entitlement to the relevant connected arises. So the BCE 6 and entitlement to a PCLS of £140,000 arises on 1 September 2015 as this amount is connected to the lifetime annuity. A further BCE 6 and entitlement to a PCLS of £20,000 arises on 15 September 2015 as this amount is connected to the drawdown pension.

Example 8

As example 7 above, but the funds are not designated for drawdown until 15 October 2015, that is after the 5 October deadline for paying the pension.

As Kitty has not become entitled to all the associated pensions by 6 October 2015, the intended PCLS that was paid in connection with those funds will not be an authorised payment in full.

As £420,000 of the expected pension funds has been used to provide a pension in time, the maximum PCLS associated with this pension will be authorised, that is £140,000. Therefore a BCE 6 occurred on 1 September 2015 and scheme administrator B should include details f his BCE in the annual BCE statement that they send to Kitty.

However the remaining £20,000k of the intended PCLS is not a PCLS and therefore this is an unauthorised payment. Scheme administrator B is liable for any scheme sanction charges in connection with this unauthorised payment and must report the payment in the 2015-16 Event Report.

5. Trivial commutation lump sums paid after an intended PCLS

5.1 What are the changes?

Where you

- have reached age 60
- have taken an intended PCLS before 27 March 2014, but
- would have otherwise met the requirements to convert your total pension savings into a lump sum using the higher trivial commutation limit of £30,000 that applied from that day,

these changes are intended to allow you to take the rest of your pension savings as a lump sum provided the trivial commutation requirements are met.

Where you receive a PCLS, normally there has to be an associated pension to ensure the PCLS is an authorised payment and can be paid tax-free. Under the changes, where you receive an intended PCLS before 27 March 2014, but you either cancel any associated annuity contract or don't use the associated funds to provide a pension, the remaining funds can be taken as a trivial commutation lump sum before 6 April 2015 and the intended PCLS will continue to be treated as a tax-free authorised payment, providing

- you receive all of the remaining funds under the scheme as a further taxable lump sum,
- that further sum is paid on or after 6 July 2014 but before 6 April 2015, and
- the further sum meets the requirements to be a trivial commutation lump sum.

However as the intended PCLS will not meet the conditions to be a PCLS, it will not in fact be a PCLS but a 'transitional 2013/14 lump sum'. Only when the entitlement to the trivial commutation lump sum arises does the intended PCLS become a transitional 2013/14 lump sum. Up until that point in time, it is referred to in the legislation as 'the earlier sum'.

For the purposes of calculating the value of your total pension rights to see if they are no more than £30,000 the earlier sum is treated as a BCE. This means it will be included in the value of your total pension savings. But as it is treated as a BCE only for the purposes of seeing if you qualify for payment of a trivial commutation lump sum, your scheme does not have to report it as a BCE.

These changes are intended to allow individuals who had taken an intended PCLS before 27 March 2014 to commute the rest of their funds using the higher trivial commutation limit of £30,000 that applied from that day.

5.2 When do the changes apply?

These changes apply where the intended PCLS (the earlier sum) was paid in the expectation of a pension being paid from the same scheme and entitlement to the expected connected pension has not yet arisen.

In addition the earlier sum must be paid

- on or after 19 September 2013 but before 27 March 2014 or
- before 19 September 2013 where a lifetime annuity contract is entered into, and on or after 19 March 2014 that contract is cancelled.

And the trivial commutation lump sum must be paid on or after 6 July 2014 but before 6 April 2015.

The changes do not apply where the intended PCLS was paid on or after 27 March 2014 as you have been able to use the new trivial commutation limits since that date.

5.3 What type of authorised payment is the intended PCLS (earlier sum)?

Once the entitlement to the associated trivial commutation lump sum has arisen, the earlier sum will fall within a new category of authorised payment called ‘a transitional 2013/14 lump sum’. This lump sum is paid tax-free under section 636A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). A transitional 2013/14 lump sum is not tested against the lifetime allowance.

The transitional 2013/14 lump sum does not form part of the trivial commutation lump sum but its value must be taken into account when calculating the value of a member’s rights to determine whether the member’s rights are within the trivial commutation limit.

The transitional 2013/14 lump sum does not result in a BCE for any other purposes.

5.4 Are there any changes to the normal conditions for a payment to be a trivial commutation lump sum in these circumstances?

The only differences from the way that the trivial commutation rules normally apply are that

- for the purposes of working out whether the member has exceeded the trivial commutation limit, they must include the amount of the earlier lump sum in the valuation of their relevant crystallised pension rights as if on the date it was paid there had been a BCE in respect of it, and
- no further tax-free element can be paid from the trivial commutation lump sum paid in respect of the transitional 2013/14 lump sum.

5.5 So how will the trivial commutation lump sum be taxed?

If the trivial commutation lump sum is paid after a transitional 2013/14 lump sum and is made up solely of the sums and assets derived from the expected pension, the whole of the trivial commutation lump will be taxable.

If there are any other assets within the pension scheme, which are paid out as part of the trivial commutation lump sum, when working out the taxation of the lump sum the scheme administrator must look at the two parts of the trivial commutation lump sum separately.

The whole of the first part which is made up of the sums and assets derived from the expected pension is taxable.

The second part of the lump sum, which constitutes any sums and assets not derived from the expected pension, is taxed as a normal trivial commutation lump sum. That is, 25% can be paid tax-free where the rights being commuted are uncrystallised.

Example 9

Andrew, who is 64, has a fund worth £25,000 within his pension scheme, this comprises two arrangements, one worth £20,000 and the other £5,000. He has no other pension savings. On 1 February 2014 he decides he wants to access the £20,000 and is paid an intended PCLS of £5,000. He intends to buy an annuity with the remaining £15,000 from that arrangement.

Following the Budget, Andrew decides not to proceed with the annuity, and concludes that he wants to access the whole of his remaining fund as a lump sum. The value of Andrew's rights for the purposes of the trivial commutation lump sum will be the sum of the intended PCLS of £5,000 plus the value of all his remaining rights. These have now risen to £15,600 from the first arrangement and £5,200 of uncrystallised rights from the second arrangement. The value of Andrew's rights for the purposes of trivial commutation is therefore £25,800 and he can take the remaining funds of £20,800 as a trivial commutation lump sum.

Providing this lump sum is paid before 6 April 2015, the intended PCLS will be a tax-free transitional 2013/14 lump sum, from the date the trivial commutation lump sum is paid.

The trivial commutation lump sum of £20,800 is made up of two elements, the first part of £15,600 from the expected pension is all taxable. The second part of £5,200 is from Andrew's uncrystallised rights in the second arrangement and therefore 25% of this amount can be paid tax-free with the remainder taxable. Therefore £1,300 of the trivial commutation lump sum of £20,800 can be paid tax-free with the remainder taxable under PAYE.

None of these payments are a BCE or use up Andrew's lifetime allowance.

5.6 When do these changes apply from?

These changes apply to further sums paid from 6 July 2014 to 5 April 2015. Because of the relative timings of the Finance Bill 2014 and the existing HMRC income tax payment processes, it is not possible to apply the correct tax charge to further sums paid earlier than 6 July 2014.

6. Small pots paid as lump sums after an intended PCLS

6.1 What are the changes?

The changes to the rules where certain small pots can be commuted under the Registered Pension Schemes (Authorised Payments) Regulations 2009 (SI 2009/1171) or article 23C of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (SI 2006/572) are similar to those changes made to where a trivial commutation lump sum is paid after an intended PCLS.

The changes ensure that the intended PCLS can remain tax-free where no pension arises but the remaining funds are commuted under regulations 11, 11A or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 or article 23C of the Taxation of Pension Schemes (Transitional Provisions) Order 2006.

6.2 When do the changes apply?

These changes apply where

- the intended PCLS (the earlier sum) was paid in the expectation of a pension being paid from the same scheme, and
- entitlement to the expected pension has not yet arisen.

And the earlier lump sum was either paid

- on or after 19 September 2013 but before 27 March 2014, or
- before19 September 2013 where a lifetime annuity contract is entered into, and on or after 19 March 2014 that contract is cancelled.

Also the lump sum under the small pot commutation rules must be paid on or after 6 July 2014 and before 6 April 2015 under one of

- regulation 11 (Occupational schemes),
- regulation 11A (Non-occupational schemes), or
- regulation 12 (Larger occupational schemes)

of the Authorised Payments Regulations referred to at 6.1 above or under article 23C of the Taxation of Pension Schemes (Transitional Provisions) Order 2006.

RPSM03105516 sets out the conditions for payment of a lump sum under article 23C SI 2006/572 - but note from 27 March 2014 the £2,000 limit was increased to £10,000. Also under these temporary provisions the requirement for the small pot to be paid within one month of the PCLS is ignored.

The changes do not apply where the intended PCLS (the earlier sum) was paid on or after 27 March 2014 as you have been able to use the new trivial commutation limits since that date.

When calculating the value of the member's rights for the purposes of the small pot limit, the value of the earlier sum paid is not included as part of any crystallised rights. Note, this is different to the position where a trivial commutation lump sum is paid.

6.3 What type of authorised payment is the intended PCLS (earlier sum)?

The tax treatment of the earlier lump sum depends on under what provision the small pot is commuted.

If the small pot is commuted under the provisions of either regulations 11, 11A or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009, the earlier sum will be a tax-free authorised payment. This lump sum is paid tax-free under section 636A of Income Tax (Earnings and Pensions) Act 2003. It is not a BCE and it is not tested against the lifetime allowance.

If the small pot is commuted under he provisions of article 23C of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 the earlier lump sum is authorised as a PCLS. Entitlement to the PCLS occurs immediately before entitlement to the commuted small pot. The PCLS is a BCE 6 and will use up part of your lifetime allowance. Your scheme administrator must provide you with a BCE statement in respect of the lump sum within three months of the BCE - see RPSM12303030.

6.4 So how will the commuted small pot be taxed?

If the later small pots lump sum is paid under the provision of article 23C of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 the whole lump sum is taxable at your marginal rate of tax. The tax legislation deems this type of lump sum to be a special type of trivial commutation lump sum all of which is taxable - see RPSM03105516.

If the small pots lump sum is paid under the provisions of Registered Pension Schemes (Authorised Payments) Regulations 2009 it will be fully taxed in the same way as if the payment had been a trivial commutation lump sum. See So how will the trivial commutation lump sum be taxed?

Example 10

Samuel, 61, has a pension pot of £12k. He takes an intended PCLS of £3k on 16 March 2014, but following the announcement at Budget he decides to wait before taking the rest of his funds. His remaining pot of £9k is less than the £10k small pot limit, so he can take the whole fund as a small pot lump sum, as the intended PCLS is not included in the calculation. He is paid this lump sum on 1 September 2014.

The original £3k he received is an authorised payment and tax-free. The small pot of £9k is all subject to tax at Samuel's marginal rate.

Neither of the payments have to be tested against Samuel's lifetime allowance as they are not BCEs.

7. Preservation of Protected Pension Age

7.1 What is the change?

As set out in section 4 of this guidance, these changes mean you can take a PCLS with the intention of taking a pension, but then transfer the uncrystallised rights to another scheme before you take the associated pension. However, if you have a protected pension age, you would normally lose your protected pension age as this is not a block transfer. The result would be that any pension paid before you reach age 55 would be an unauthorised payment.

This change extends the definition of a block transfer in certain circumstances and the right to the protected pension age will then also apply to the transferred rights. The change to the definition of block transfer will also allow members with rights under a scheme that does not give the option of the new flexibilities to transfer all their rights (before receiving a PCLS) to a new scheme and keep their protected pension age. However, the transfer must take place before 6 April 2015.

7.2 What are the conditions?

To be a block transfer the following rules must be met

- there must be a transfer of all the sums and assets that represent the member's rights under the scheme
- the transfer must be made as a single transaction
- the transfer must take place on or after 19 March 2014 and before 6 April 2015
- the member must become entitled to all their rights under the receiving scheme on the same date and that date must be before 6 October 2015 - this means that the member must crystallise not only all of the transferred funds but also any other rights they may have under the receiving scheme on the same date.

This means that any right to a protected pension age will be protected as part of the transfer.

Example 11

Cheryl has a protected pension age of 50 under scheme A that only provides the option of providing a pension as a lifetime annuity. Cheryl has pension savings of £400,000 built up under this scheme. Cheryl also has £50,000 under a personal pension scheme that allows benefits to be paid in any way authorised by the tax rules. The normal minimum pension age of 55 applies to Cheryl's personal pension funds.

In February 2015 Cheryl celebrates her 50th birthday and wants to start drawing some benefits. However Cheryl wants to take advantage of the flexible payment rules. Cheryl has the following options

- *Take a PCLS from scheme A and transfer the remaining pension savings to another scheme before 6 April 2015. This could include transferring the remaining savings to her existing personal pension scheme.*
- *Before taking any benefits transfer all her rights to another scheme before 6 April. This could include transferring the remaining savings to her existing personal pension scheme.*

Cheryl decides to transfer all her rights under scheme A to her existing personal pension plan. In March 2015 Cheryl transfers £400,000 (all her savings in scheme A) to her personal pension. At this point she has not taken a PCLS. As long as Cheryl puts all her benefits into payment on the same date and before 6 October 2015 this will be a block transfer and Cheryl can keep her protected pension age of 50.

If either

- *Cheryl transfers her benefits on or after 6 April 2015, or*
- *she has not crystallised all her rights under the receiving scheme on the same date and before 6 October 2015*

she will only keep her protected pension age if the transfer meets the definition of the standard definition of a block transfer (and not this temporary relaxation) as set out at RPSM03106070.

8. Protected Tax-free Lump Sums

8.1 What are the changes?

There are three forms of protected tax-free lump sums:

- Lump sums of over £375,000 with primary protection - see RPSM03105135
- Lump sums of over £375,000 with enhanced protection - see RPSM03105185
- Scheme specific protection of lump sums of over 25 per cent - see RPSM03105500

No changes have been made for the first form of lump sum protection. This is because the amount of the protected lump sum that may be paid does not depend on the amount of pension being paid in connection with that lump sum. Changes have been made to the rules for protection of lump sums of over £375,000 with enhanced protection and for scheme specific lump sum protection so that a member is not disadvantaged if they want to use the new flexibilities.

8.2 What are the changes for scheme specific protected lump sums?

The maximum lump sum that may be paid is based on the amount of the member's lump sum rights under the scheme on 5 April 2006 and an 'additional lump sum amount' (ALSA). Part of the calculation of ALSA depends on the value of 'AC', the value of the pension paid in connection with the lump sum (see RPSM03105580).

This change confirms that the value of AC will be based on the value of the expected pension, rather than the value of the actual pension paid, where either the provisions for the temporary extension of the period when a PCLS can precede a pension or the temporary relaxation to allow transfer of rights after a PCLS is paid are used.

This change applies to lump sums paid in accordance with sections 3 and 4 above.

Example 12

Graeme has scheme specific lump sum protection. The value of his protected lump sum rights under the scheme on 5 April 2006 was £70,000 and the value of total scheme rights was £100,000. In May 2014 Graeme wants to access his pension benefits. At this point his total pension savings have grown to £150,000. Graeme's scheme only gives him the option of taking his pension as a lifetime annuity and Graeme wants to take advantage of the new flexibilities. Graeme decides to take his maximum PCLS of £100,667[1] from the scheme and transfer the remaining £49,333 to another scheme.

In July 2015 Graeme takes his remaining funds under the new flexible rules. By this time his remaining pension savings have dropped slightly in value to £48,000. Even though the

[1] This is the value of the lump sum from 5 April 2006 (£70,000) uprated by the increase in the subsequent increase in the lifetime allowance to 2011 (£1.8m/£1.5m) = £84,000 – plus the additional lump sum amount which is 25% of difference between the total of the current rights (£150,000) and the rights at 5 April 2006 multiplied by the current SLA over the £1.5m _£100,000 x 1.25/1.5 = £83,333) = £16,667

amount of pension Graeme crystallises (his actual pension) is less than his expected pension this does not change the amount of his protected lump sum.

The temporary extension of the definition of a block transfer described at section 7.2 also applies to transfers and scheme specific protected lump sums. So in the example above Graeme could have transferred all his rights into a new scheme and kept his right to a protected lump sum as long as the conditions at section 7.2 were met.

You should note that the change only affects when a block transfer occurs not how protection is given following a block transfer. So the problem of transferring into a scheme that already has protection - as explained at RPSM03105522 - also applies here.

8.3 What are the changes for protected lump sums of over £375,000 with enhanced protection?

The maximum lump sum that may be paid is a percentage of the amount of benefits crystallising under the scheme; the percentage will be shown on you enhanced protection certificate.

The maximum PCLS should continue to be calculated in the same way as at present as described at RPSM03105200 and RPSM03105210.

Where the lump sum is paid within six months of the entitlement to the actual pension arising the maximum PCLS should be calculated by reference to the actual pension.

Where the lump sum is paid more than six months before the entitlement to the actual pension arises the calculation should be by reference to the expected pension.

9. Summary of new reporting requirements

For the intended PCLS to be a PCLS in accordance with sections 3 and 4 above the member must become entitled to a pension with the remaining pension savings before 6 October 2015.

Once the member becomes entitled to the pension under the same scheme the scheme administrator must

- provide the member with a certificate of the amount of lifetime allowance used up by the PCLS and pension at least once a year, and
- where necessary, report any reportable events in connection with the PCLS or pension to HMRC on the Event Report

If the member does not become entitled to a pension with the remaining pension savings before 6 October 2015 then the intended PCLS will be an unauthorised payment and the scheme administrator should report this to HMRC on the Event Report for 2015/16.

If the member transfers all or part of their remaining pension savings after taking a PCLS the scheme administrator must provide the receiving scheme administrator with

- information on the date and the amount of the PCLS,
- the total of the value of any assets plus the sums held to provide the expected pension when the PCLS was paid and
- a statement that no further PCLS can be paid in connection with that expected pension.

The transferring scheme administrator must provide this information by the end of 30 days beginning with the transfer date, or by 3 September 2014 if this is later.

Once the member becomes entitled to a pension the scheme administrator of the receiving scheme must

- provide the member with a certificate of the amount of lifetime allowance used up by the PCLS and the pension at least once a year
- where necessary, report any reportable events in connection with the PCLS or pension to HMRC on the Event Report.

If the receiving scheme later transfers the crystallised right to another registered pension scheme or to an insurance company that scheme administrator must pass on details of both the PCLS and connected pension to the new scheme administrator or insurer.

If the member does not become entitled to a pension with the remaining pension savings before 6 October 2015 then the intended PCLS will be an unauthorised payment and the scheme administrator of the receiving scheme should report this to HMRC on the Event Report for 2015/16.

The scheme administrator of the receiving scheme is also liable for any scheme sanction charge in respect of the unauthorised payment.

10. Glossary

Actual pension – The pension that the member becomes entitled to where an intended PCLS is paid before 6 April 2015 under these changes. The amount of the BCE is based on the actual pension.

Associated pension - The pension that is required to be paid in connection with the PCLS, so that the PCLS is an authorised payment.

Authorised payment – A payment from a registered pension scheme to or in respect of a member that is authorised by the pensions tax legislation under sections 164 to 168 of the Finance Act 2004

BCE – Benefit Crystallisation Event. A defined event or occurrence that triggers a test of the benefits 'crystallising' at that point against the individual's available lifetime allowance. See RPSM11102000.

Earlier sum – A lump sum paid to the member which is intended to be a PCLS, but where the intended pension money is then instead paid as a trivial commutation lump sum or small pot lump sum under the Registered Pension Schemes (Authorised Payments) Regulations 2009.

Expected pension - The pension that it is expected the member will become entitled to when the PCLS is paid.

Further sum – A lump sum that is paid to a member before 6 October 2015 that is intended to be either a trivial commutation lump sum or a small pot lump sum, where the member has received an earlier sum intended to be a PCLS.

PCLS (Pension Commencement Lump Sum) – A tax-free lump sum of up to 25% of a member's pension rights that can be paid to them when they first become entitled to a pension. See Pension schemes and tax - the basics.

Protected pension age – The age, before the normal minimum pension age (NMPA), at which a member has a right to start taking their pension. This applies where an individual was a member of a pension scheme before 6 April 2006 and on 5 April 2006 they had the right to take a pension from that scheme before NMPA. See RPSM03106000.

Recognised transfer – A transfer representing a member's accrued rights under a registered pension scheme to another registered pension scheme or a qualifying recognised overseas pension scheme (QROPS). The member's rights must become held for the purposes of, or to represent rights under either the registered pension scheme or the QROPS.

Small pots lump sum – A lump sum that can be paid to a member as an authorised payment made under the Registered Pension Schemes (Authorised Payments) Regulations

2009 or article 23C of he Taxation of Pension Schemes (Transitional Provisions) Order 2006. Normally the lump sum must be no more than £10,000. See Taking a small pension pot as a lump sum and RPSM03105516.

Transitional 2013/14 lump sum – A payment that was intended to be a PCLS where no associated pension is paid, but instead a trivial commutation lump sum (but not a small pot lump sum) is paid from the funds intended to provide the expected pension.

Trivial commutation lump sum – A lump sum that can be paid to a member as an authorised payment where their total pension savings are less than £30,000 subject to certain conditions. See Taking a small pension pot as a lump sum - total of all pension pots worth £30,000 or less.