EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSIONS SCHEMES (PROVISION OF INFORMATION) (AMENDMENT NO. 2) REGULATIONS 2015

2015 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 2006 Regulations") to support changes made by the Finance Act 2015 ("FA15") that allow certain annuities paid after the death of a pension scheme member to be paid tax-free.

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

3.1 None.

4. Legislative Context

4.1 Tax relief is provided on pension savings in order that those savings can be used to provide benefits later in life for the member and their beneficiaries. Part 4 of Finance Act 2004 ("FA04") sets out the regime for the registration of pension schemes and the system of tax reliefs that apply to them. Chapter 7 of Part 4 enables HMRC to monitor compliance with the pensions tax regime and ensures that individuals and scheme administrators have the right information to pay any tax that may be due. The 2006 Regulations are made under powers contained in Chapter 7 and set out in detail the information that must be provided by prescribed persons at set events.

4.2 Regulation 8 of the 2006 Regulations sets out the information that a scheme administrator must provide to personal representatives of the member on their death where death benefits are paid that are tested against the member's lifetime allowance. Regulation 10 sets out the information that personal representatives must provide to HMRC if there is a lifetime allowance charge arising following the payment of death benefits. Regulations 14ZA to 14ZE set out the information that must be provided if an individual flexibly accesses their pension rights. Regulation 17A sets out information that must be provided where there a transfer of sums and assets representing a scheme pension or annuity between two insurance companies.

4.3 Changes to FA04 were made by Schedule [x] to FA15, to extend the category of people who can receive annuity payments on the death of the member or previous beneficiary. It also provides that where the death occurs before age 75, then annuity payments to a beneficiary can be made tax free.

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 save for their retirement, on the basis that the pension savings are used to provide an benefits in retirement for the member and/or death benefits for their beneficiaries.

7.2 Changes to FA04 were introduced in the Taxation of Pensions Act 2014 ("TPA14") to provide greater flexibility for individuals to access their money purchase pension savings from age 55. These changes removed the requirement that a money purchase pension should be payable for life, but retained the principle that tax-relieved pension savings should not be accessed before age 55. Changes were also made to allow death benefits paid to beneficiaries from a drawdown pension fund to be paid tax free where the member, or in some cases the beneficiary, died before age 75. FA15 extended this to allow annuities paid to a beneficiary to be paid tax free where the member or previous beneficiary died before age 75. If funds that can be paid tax free are transferred from one insurance company to another, the receiving insurance company needs to know whether tax should be paid on that pension or not. This instrument therefore imposes new requirements on insurance companies who are transferring sums and assets funding an annuity to another insurance company, to provide appropriate information so that the receiving insurance company can ensure that the correct tax treatment is applied to future payments.

7.3 The instrument also amends the reporting requirements in connection with the payment of death benefits that are tested against the lifetime allowance to include any purchase of a beneficiaries annuity which will be subject to the new BCE 5D introduced by FA15.

7.4 The instrument also prevents scheme administrators having to provide a statement about someone flexibly accessing their pension rights if they have already been informed by a scheme manager of a qualifying recognised overseas pension scheme that the individual has already flexibly accessed pension rights. Similarly if an individual receives a statement about flexibly accessing their pension rights under a registered pension scheme they will not be required to provide that information to pension schemes they belong to if they have, in the past, provided information about flexibly accessing a qualifying recognised overseas pension scheme. These provisions prevent the same information being reported multiple times.

- Consolidation

7.4 There are currently no plans to consolidate the 2006 Regulations.

8. Consultation outcome

8.1 This instrument has been published today for an 8 week technical consultation in line with the Tax Policy Framework.

9. Guidance

9.1 Existing guidance will be updated at the earliest opportunity to include the requirements introduced by this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not expected to be significant.

10.2 The impact on the public sector is not expected to be significant.

10.3 A Tax Information and Impact Note published on 8 August 2014 alongside TOPA14, and updated on 10 December 2014, is available at www.gov.uk/government/publications/pension-flexibility-2015. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 This instrument applies to small firms. It is expected to impact on small and large firms in the same way and the impacts are not expected to be significant.

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 Telephone: 03000 564209 or Email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.