These notes refer to the Taxation of Pensions Act 2014
(c.30) which received Royal Assent on 17 December 2014

TAXATION OF PENSIONS ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1

Part 3 - Pension payments out of uncrystallised funds

121. Paragraph 54 amends section 166(1) of FA 2004 to insert an uncrystallised funds pension lump sum (UFPLS) as a type of lump sum that may be paid to a member of a registered pension scheme as an authorised payment.

122. Paragraph 55 amends section 166(2) of FA 2004 so that the entitlement to a UFPLS arises immediately before it is paid so that it is tested against the member's available lifetime allowance at that point.

123. Paragraph 57 inserts new paragraph 4A into Schedule 29. This sets out the requirements for a payment to be a UFPLS.

124. New paragraph 4A(1) provides the general conditions that a payment needs to meet to be a UFPLS, and that a payment can't be a UFPLS where any of the new paragraph 4A(3) to (5) applies to the member.

125. New paragraph 4A(2) provides that where the member has not reached age 75 when a UFPLS is paid, if the amount of the lump sum paid uses up all the member's lifetime allowance, any excess paid over the available lifetime allowance will not be a UFPLS. This excess can still be paid as an authorised lump sum but will be a lifetime allowance excess lump sum and is liable to income tax at 55% under section 215 FA 2004 (lifetime allowance charge).

126. New paragraph 4A(3) to (6) specify the further circumstances in which a member with transitional protection under Schedule 36 cannot be paid a UFPLS, because allowing the payment of a lump sum that was 25% tax-free may enable the member to receive higher amounts of tax-free payments than they are currently entitled to. The prescribed circumstances are where immediately before the payment:

    a) the member was entitled to either primary or enhanced protection under Schedule 36 of FA 2004 and the member had a right to a tax-free lump sum of greater than £375,000 on 5 April 2006; or

    b) the member is entitled to a lifetime allowance enhancement factor under the provisions listed in new paragraph 4A(6) and the available portion of their lump sum allowance is less than 25 per cent of the amount of the payment.

127. Paragraphs 58 to 60 amend paragraph 12 of Schedule 29 to ensure that any amount paid to a member aged 75 or over that exceeds the maximum that can be paid as an UFPLS because the member does not have sufficient available lifetime allowance is taxed as income. Where the member is under age 75 at the time of the payment, it is taxed as a lifetime allowance excess lump sum.

128. Paragraph 61 amends paragraph 15 of Schedule 32 to FA 2004 (Schedule 32) and provides that a UFPLS is a relevant lump sum, and therefore when the entitlement to the UFPLS arises, the full amount of the UFPLS is tested against the individual's lifetime allowance as a benefit crystallisation event of type 6 listed in section 216 of FA 2004 (a BCE 6).

129. Paragraph 62 amends section 636A of ITEPA 2003 which provides an exemption from income tax for certain lump sums paid by registered pension schemes.

130. Paragraph 62(2) inserts new subsections (1A) to (1C) into section 636A to provide how a UFPLS is taxed. New subsection (1A) provides that where the member is under age 75, 25% of the amount of the UFPLS is paid free of income tax, and the remainder is taxed as if it were a pension under section 579A of ITEPA 2003, that is, it is taxed at the individual's marginal rate. New subsections (1B) and (1C) provide that where the member is aged 75 or over, and they have more available lifetime allowance (as adjusted in accordance with paragraph 12 of Schedule 29 as amended by paragraphs 58 to 60 of Schedule 1) than the amount of the UFPLS, then the lump sum will be taxed in the same way as if the member was under age 75. If a member aged 75 or over has available less lifetime allowance than the amount of the UFPLS, then an amount equal to 25% of their available lifetime allowance can be paid tax-free, with the remainder of the lump sum taxable at the individual's marginal rate. The different method of taxing payments for members pre- and post- age 75 is because at age 75 all uncrystallised benefits will have been tested against the lifetime allowance already and any lifetime allowance charge will have been imposed at that time.