

2011 No. 1797

INCOME TAX

**The Registered Pension Schemes (Provision of Information)
(Amendment) (No.2) Regulations 2011**

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| <i>Made</i> | - - - - | <i>20th July 2011</i> |
| <i>Laid before the House of Commons</i> | | <i>21st July 2011</i> |
| <i>Coming into force</i> | - - | <i>11th August 2011</i> |

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 251(1)(a), (2), (4) and (5) of the Finance Act 2004(a), and now exercisable by them(b).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Provision of Information) (Amendment) (No.2) Regulations 2011 and come into force on 11th August 2011.

(2) The amendments in regulation 4(3) and (9), and regulation 6 have effect for the tax year 2012-13 and subsequent years.

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

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

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) in the definition of “associated company”, for “section 416 of ICTA(d)”, substitute “section 449 of the Corporation Tax Act 2010(e)”,
- (b) in the definition of “director”, for “section 417 of ICTA”, substitute “section 67 of ITEPA 2003(f)”, and
- (c) after the definition of “event report” insert—

(a) 2004 c. 12.

(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 a reference to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) S.I. 2006/567 as amended by S.I. 2006/1961 and 2011/301; there are other amending instruments but none are relevant.

(d) 1988 c. 1

(e) 2010 c. 4.

(f) 2003 c. 1.

“fixed protection” means transitional protection provided for under paragraph 14 of Schedule 18 to the Finance Act 2011(a).”.

(3) In paragraph (2), for “section 839 of ICTA”, substitute “section 993 ITA 2007(b)”.

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

(2) In the second column of entry 1 (unauthorised payments)(c), in sub paragraph (c), for “HMRC” substitute “the Commissioners”.

(3) In entry 6 (benefit crystallisation events and enhanced lifetime allowance or enhanced protection)—

(a) for the heading substitute—

“Benefit crystallisation events and enhanced lifetime allowance, enhanced protection or fixed protection”,

(b) in the first column, for paragraph (b) substitute—

“(b) in order to reduce or eliminate liability to the lifetime allowance charge the member relies on entitlement to—

(i) an enhanced lifetime allowance,

(ii) enhanced protection, or

(iii) fixed protection.”, and

(c) for the entry in the second column, substitute—

“The name and national insurance number of the member, the amount crystallised by the event, the date of the event and the reference number given by the Commissioners under —

(a) the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006(d) (where the member relies on an enhanced lifetime allowance or enhanced protection), or

(b) the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011(e) (where the member relies on fixed protection).”.

(4) In entry 7 (pension commencement lump sum), for the text in column 1 substitute—

“The scheme makes a pension commencement lump sum payment to a member which—

(a) exceeds 25% of the amount found by adding the amount of the payment to the entitlement amount; and

(b) is more than 7.5%, but less than 25%, of the standard lifetime allowance for the tax year in which the sum is paid.

For the purposes of this reportable event, “the entitlement amount” is—

(i) the amount crystallised by reason of the member becoming entitled to the pension with which the lump sum payment is associated, or

(ii) where a benefit crystallisation event did not occur by reason of the member becoming entitled to the pension with which the lump sum payment is associated, the amount that would have been so crystallised if the member had been under the age of 75 at the date the entitlement arose.”;

(5) In the second column of entry 7, for the words in paragraph (b), substitute “the entitlement amount”.

(a) 2011 c. 11.

(b) 2007 c. 3.

(c) Entries 1 and 9 were amended by S.I. 2011/301

(d) S.I. 2006/131 as amended by S.I. 2006/3261; there are other amending instruments but none is relevant.

(e) S.I. 2011/1752.

(6) In the second column of entry 9 (transfers to qualifying recognised overseas pension schemes), in paragraph (a), after “country” insert “or territory” and for “located” substitute “situated”.

(7) Omit entries 15 (alternatively secured pension) and 17 (lump sum payment after the death of a member aged 75 or over).

(8) In entry 18 (scheme chargeable payment), in column 1 omit “section 181A (alternatively secured pensions: minimum level of payment);” and

(9) After entry 20 (occupational pension scheme) insert—

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| <p>“21 Flexible drawdown arrangements Section 165(3A) or 167(2A)(a) applies to an arrangement.</p> | <p>The name and national insurance number of the member or dependant (“the member”) who meets the flexible drawdown conditions together with the total amount of drawdown pension or dependant’s drawdown pension (“drawdown pension”) paid under the arrangement to the member during the reporting year and the country or territory where the sole or main address of the member was situated on the date—</p> <p>(i) the declaration under sections 165(3A)(b) or 167(2A)(b) was made in respect of the arrangement, or</p> <p>(ii) if later, the first payment of drawdown pension was made under the arrangement in the reporting year.”</p> |
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5. After regulation 5A(b) (unauthorised borrowing: provision of information by scheme administrator to the Commissioners) insert—

“Minimum income requirement: provision of information by scheme administrator to the Commissioners for the tax year 2011-12

5B.—(1) Where section 165(3A) or 167(2A) of the Finance Act 2004 applies to an arrangement (“the specified arrangement”) the scheme administrator shall provide the information specified in paragraph (2) in the form of a written report.

(2) The information required is—

- (a) the name of the member or dependant (“the member”) who meets the flexible drawdown conditions and the member’s national insurance number or alternative number obtained in accordance with the procedure described in regulation 3(2)(c) (provision of information by scheme administrator to the Commissioners),
- (b) the country or territory where the member’s sole or main address was situated on the date the declaration under section 165(3A)(b) or 167(2A)(b) was made in respect of the specified arrangement, and
- (c) the total amount of drawdown pension paid to the member under the specified arrangement for the tax year 2011-12.

(3) The information shall be provided to the Commissioners no later than the 31st January 2013.”.

(a) Sections 165(3A) and 167(2A) were inserted by paragraphs 1 and 11 of Schedule 16 to the Finance Act 2011 (c. 11).
 (b) Regulation 5A was inserted by S.I. 2010/581.
 (c) Regulation 3(2) was substituted by S.I. 2011/301.

6. For regulation 11 (information provided by member to scheme administrator: enhanced lifetime allowance) substitute—

“Information provided by member to scheme administrator: enhanced lifetime allowance, enhanced protection or fixed protection

11. If the member of a registered pension scheme intends to rely on entitlement to—

- (a) an enhanced lifetime allowance or enhanced protection by virtue of any provisions listed in section 256(1)(a), or
- (b) fixed protection by virtue of paragraph 14 of Schedule 18 to the Finance Act 2011

the member must give to the scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006 or the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 in respect of that entitlement.”.

7. In regulation 14 (information provided to members by scheme administrators about benefit crystallisation events), after paragraph (2)(b) insert—

- “(ba) under paragraph (1)(a) in a tax year following the tax year in which the member reaches the age of 75;”.

8. After regulation 14 insert—

“Annual allowance: annual provision of information by scheme administrator to member

14A.—(1) Where—

- (a) an individual is a member (“the member”) of a registered pension scheme for all or part of a pension input period ending in a tax year (“the relevant pension input period”) who meets one of the conditions in paragraph (8), and
- (b) the aggregate of the pension input amounts for the relevant pension input period in respect of each arrangement under the registered pension scheme relating to the member exceeds the annual allowance for that tax year,

the scheme administrator must provide the member with a statement containing the information specified in paragraph (2) (the “pension savings statement”).

(2) The information is—

- (a) the aggregate of the pension input amounts for the relevant pension input period in respect of all the arrangements under the registered pension scheme relating to the member (see section 152),
- (b) the annual allowance for the tax year in which the relevant pension input period ends (“the relevant tax year”),
- (c) the aggregate of the pension input amounts in respect of all the arrangements under the registered pension scheme relating to the member for each of the pension input periods ending in the three tax years immediately preceding the relevant tax year (subject to paragraph (3)), and
- (d) the annual allowance for each of the three preceding tax years or where one or more of the three preceding tax years is the 2008-09, 2009-10 or 2010-11 tax year, the assumed annual allowance for that tax year pursuant to paragraph 30(3)(a) of Schedule 17 to the Finance Act 2011.

(3) Where a pension input period in paragraph (2)(c) ends in the 2008-09, 2009-10 or 2010-11 tax year, the pension input amount for that pension input period must be

(a) Section 256(1) was amended by paragraph 42 of Schedule 6 to the Finance Act 2006 (c. 25).

determined on the basis that the assumptions in paragraph 30(3)(b) of Schedule 17 to the Finance Act 2011 apply to that pension input period.

(4) The scheme administrator must provide the member with the pension savings statement no later than the 6th October following the relevant tax year. This paragraph is subject to paragraphs (5) and (6).

(5) Where the relevant tax year is 2011-12, the scheme administrator must provide the member with the pension savings statement for that year no later than 6th October 2013.

(6) Where the scheme administrator has not been provided with the information concerning the member by the member's employer in respect of the relevant pension input period pursuant to regulation 15A, the scheme administrator must provide the pension savings statement—

- (a) within 3 months following receipt of that information, or
- (b) if later, on or before the date specified in paragraph (4) or (where the relevant tax year is 2011-12) paragraph (5).

(7) Where—

- (a) the member meets the conditions in paragraph (1)(a) and (b), and
- (b) paragraph 28 of Schedule 17 to the Finance Act 2011 applies (provision for a straddling pension input period),

the scheme administrator must provide the member with a pension savings statement containing the pension input amount in respect of the pre-announcement period and post-announcement period in addition to the information specified in paragraph (2).

(8) The conditions referred to in paragraph (1) are as follows.

Condition A

The individual is an active member of the registered pension scheme referred to in paragraph (1)

Condition B

The individual is a deferred member of the registered pension scheme referred to in paragraph (1) in relation to a cash balance arrangement and the condition in section 230(5B)(b) (cash balance arrangements)(a) is not met in respect of the pension input amount for the relevant pension input period.

Condition C

The individual is a deferred member of the registered pension scheme referred to in paragraph (1) in relation to a defined benefits arrangement and the condition in section 234(5B)(b) (defined balance arrangements)(b) is not met in respect of the pension input amount for the relevant pension input period.

Annual allowance: provision of information by scheme administrator to member on request

14B.—(1) Where a member or former member (“the member”) of a registered pension scheme makes a written request to the scheme administrator of that scheme for any such information in respect of a pension input period ending in a tax year (“the relevant pension input period”) as is referred to in regulations 14A(2) or (7), the scheme administrator must provide the member with the information requested—

- (a) within 3 months following receipt of the request, or

(a) Subsection (5B) was inserted into section 230 of the Finance Act 2004 by paragraph 7 of Schedule 17 to the Finance Act 2011.

(b) Subsection (5B) was inserted into section 234 of the Finance Act 2004 by paragraph 10 of Schedule 17 to the Finance Act 2011.

- (b) if later, on or before 6th October following the tax year (“the relevant tax year”) in which the relevant pension input period ended.

This paragraph is subject to paragraphs (2) and (3).

(2) Where the relevant tax year is 2011-12, the scheme administrator must provide the member with the information requested under paragraph (1) for that tax year no later than 6th October 2013.

(3) Where the scheme administrator has not been provided with the information concerning the member by the member’s employer in respect of the relevant pension input period pursuant to regulation 15A (“the regulation 15A information”), the scheme administrator must provide the information requested under paragraph (1)—

- (a) within 3 months following receipt of the regulation 15A information, or
- (b) if later, on or before—
 - (i) 6th October following the relevant tax year, or
 - (ii) where the relevant tax year is 2011-12, the 6th October 2013.”.

9. After regulation 15 (information between scheme administrators) insert—

“Annual allowance: information to be provided to scheme administrators by certain persons

15A.—(1) Where—

- (a) an employer is a sponsoring employer of a registered pension scheme, and
- (b) an employee of that employer or a director is an active member of that scheme in relation to an arrangement under the scheme (“the arrangement”) for all or part of a pension input period ending in a tax year,

the employer must provide to the scheme administrator such information as will enable the scheme administrator to calculate the pension input amount in respect of the arrangement for the pension input period ending in that tax year.

(2) The information must be provided to the scheme administrator no later than the 6th July following the tax year in which the pension input period ends. This paragraph is subject to paragraph (3).

(3) Where the pension input period ends in the tax year 2011-12, the employer must provide the information relating to the pension input period no later than 6th July 2013.

(4) The employer must provide to the scheme administrator such information as will enable the scheme administrator to calculate the pension input amount for any of the pension input periods ending in the tax years 2008-09, 2009-10 and 2010-11, within 3 months following receipt of a written request from the scheme administrator or, (if later), on or before 6th July 2013.

(5) Where—

- (a) regulation 14A(7) applies to a scheme administrator (obligation to provide information to a member where there is a straddling pension input period), and
- (b) a written request is made by the scheme administrator to the employer,

the employer must provide the scheme administrator with such information as will enable the scheme administrator to comply with the obligation contained in regulation 14A(7), such information to be supplied within three months of receipt of the written request or, (if later) on or before 6th July 2013.

(6) The obligations contained in this regulation shall apply to a responsible person (see paragraph (7)) and for the purposes of applying this regulation to the responsible person, references to “employer” shall be read as referring to the responsible person.

(7) For the purposes of this regulation “responsible person” means a person who is responsible for providing the scheme administrator of a registered pension scheme with

such information as will enable the scheme administrator to calculate the pension input amount in respect of a member where the member is an active member of that scheme in relation to an arrangement under the scheme for all or part of a pension input period ending in a tax year.”

10. In regulation 16 (pensions and annuities in payment: information provided to and by insurance companies)—

(a) in paragraph (1) for “an unsecured pension” substitute “a drawdown pension”; and

(b) after paragraph (3) insert—

“(4) No obligation to provide a statement arises—

(a) under paragraph (2) in respect of any entitlement to a pension or annuity or pension commencement lump sum which does not give rise to a benefit crystallisation event;

(b) under paragraph (3) in a tax year following the tax year in which the member reaches the age of 75.”.

11. In the heading above regulation 17 (payments to insurance companies from unsecured pension funds), for “unsecured pension” substitute “drawdown pension”.

12. In regulation 17—

(a) in paragraph (1) for “an unsecured pension” substitute “a drawdown pension”,

(b) in paragraphs (2) and (4) for “unsecured pension” substitute “drawdown pension”.

(c) after paragraph (7) insert—

“(8) No obligation to provide a statement arises under paragraph (3) or (6) in a tax year following the tax year in which the pensioner or annuitant reaches the age of 75.”.

Melanie Dawes

Dave Hartnett

20th July 2011

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”). These provisions are consequential on the following amendments to Part 4 of the Finance Act 2004 (“FA 2004”) made by the Finance Act 2011:

amendments which reduce the annual allowance for pension savings from £255,000 to £50,000 from the 2011-12 tax year.

amendments which remove certain tax rules that require members of registered pension schemes to secure an income, usually by buying an annuity, by age 75. The concepts of an “unsecured pension” and an “alternatively secured pension” are replaced with the concept of a “drawdown pension”.

amendments which enable members of registered pension schemes or their dependants, who meet the “flexible drawdown conditions”, chiefly a minimum annual income requirement of £20,000, to be able to access the whole of their funds as pension income without a limit on annual withdrawal.

amendments which reduce the lifetime allowance from £1,800,000 to £1,500,000 with effect from 6th April 2012. Transitional protection (“fixed protection”) is provided for individuals who think they are likely to exceed the reduced lifetime allowance of £1,500,000 when they become entitled to their benefits and who would otherwise face a

lifetime allowance charge on the excess. Individuals must apply for fixed protection before 6th April 2012.

Regulation 1 provides for citation, commencement and effect.

Regulation 3 inserts new definitions into the Principal Regulations.

Regulation 4 amends the table appended to regulation 3 of the Principal Regulations.

Regulations 4(2) and (6) make minor amendments to ensure consistency in wording.

Regulation 4(3) amends entry 6 of the table with effect from the tax year 2012-13 to provide that a reportable event takes place where a registered pension scheme member relies on fixed protection when a benefit crystallisation event and one of the circumstances outlined in the table at entry 6(a) takes place. The reportable event triggers the notification requirement contained in regulation 3 of the Principal Regulations and the information specified in entry 6 must be reported in the event report supplied by the scheme administrator to Her Majesty's Revenue and Customs ("HMRC").

Regulations 4(4), (5), (7) and (8) make consequential amendments to the table.

Regulation 4(9) inserts a new entry 21 into the table with effect from the tax year 2012-13. Entry 21 is added to the list of reportable events requiring the scheme administrator to provide HMRC with specified information about schemes which meet the flexible drawdown conditions. The event report is listed in Schedule 1 of the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006 (S.I. 2006/570) as information which must be supplied to HMRC by an approved method of electronic communication.

Regulation 5 inserts a new regulation 5B which will only be effective for information relating to the tax year 2011-12. The new regulation 5B provides that a scheme administrator of a scheme which meets the flexible drawdown conditions in section 165(3A) and (3B) or section 167(2A) and (2B) of FA 2004 shall provide HMRC with a written report containing specified information.

Regulation 6 amends regulation 11 of the Principal Regulations so that if a registered pension scheme member intends to rely on fixed protection the member must give to the scheme administrator the reference number issued by HMRC under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 (S.I. 2011/1752). These amendments take effect for the tax year 2012-13.

Regulation 7 makes a consequential amendment to regulation 14.

Regulation 8 inserts regulations 14A and 14B into the Principal Regulations. New regulation 14A requires the scheme administrator of a registered pension scheme to provide certain members with the information ("pension savings statement") they will need to work out whether or not the annual allowance charge will be payable for a tax year and if so, the amount of the charge. The pension savings statement must be provided by 6th October following the end of the tax year but in the 2011-12 tax year the pension savings statement must be provided by 6th October 2013. Regulation 14B provides that a scheme administrator must provide a member or former member with such information as is referred to in regulation 14A if a written request is made by the member.

Regulation 9 inserts regulation 15A into the Principal Regulations. This regulation provides that the sponsoring employer of a registered pension scheme must supply the scheme administrator with the information required to calculate the pension input amount relating to an employee or director for a tax year, by 6th July following the end of that tax year. Where the tax year in question is 2011-12, the employer must supply the information to the scheme administrator on or before 6th July 2013. The employer must supply the scheme administrator with the information required to calculate the pension input amounts for the periods ending in the tax years 2008-09 to 2010-11 on written request. Such information must be supplied within 3 months of receipt of the written request or by 6th July 2013. Where there is a straddling pension input period the employer must supply the scheme administrator with such information as is necessary to provide the

member with a pension savings statement in respect of the pre-announcement and post-announcement period. The obligations contained in regulation 15A will also apply to persons other than employers who are responsible for providing scheme administrators with information about a member of the scheme.

Regulations 10 11 and 12 make consequential amendments to regulations 16 and 17.

A Tax Information and Impact Note (“TIIN”) covering this instrument was published on 9 December 2010 alongside draft legislation for the Finance (No.3) Bill 2011. This was updated on 3 March 2011 to reflect further decisions relating to the restriction of pensions tax relief. A separate TIIN covering the removal of the effective requirement to annuitise by age 75 and the limit on annual withdrawals was published on 9th December 2010. Both TIINs remain an accurate summary of the impacts that apply to this instrument and are available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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STATUTORY INSTRUMENTS

2011 No. 1797

INCOME TAX

The Registered Pension Schemes (Provision of Information)
(Amendment) (No.2) Regulations 2011

£5.75