

EXPLANATORY MEMORANDUM TO
THE PENSIONS (ABOLITION OF LIFETIME ALLOWANCE CHARGE ETC) (NO.
2) REGULATIONS 2024

2024 No. 1012

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

- 2.1 Tulip Siddiq MP, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Helen Page, Deputy Director for Pensions, Individuals Policy Directorate at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Catherine Batey at HMRC Telephone: 03000 512336 or email: pensions.policy@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The legislation amends the Taxes Management Act 1970¹ in respect of penalties.
- 4.2 The legislation amends the Income Tax (Earnings and Pensions) Act 2003² in respect of the permitted maximum and taxable pension income.
- 4.3 The legislation amends the Income Tax (Earnings and Pensions) Act 2003³ and The Pension (Non-Taxable Payments Following Death) (Real Time Information) Regulations 2021⁴ in respect of reporting certain lump sums, and lump sum death benefit payments, to HMRC.
- 4.4 The legislation amends Schedule 36 to the Finance Act 2004 in respect of pre-commencement pension rights, primary protection and enhanced protection.
- 4.5 The legislation also amends the Finance Acts 2011, 2013, 2014 and 2016 in respect of lifetime allowance protections.

¹ TMA 1970

² ITEPA 2003

³ ITEPA 2003

⁴ S.I. 2021/506

- 4.6 The legislation makes minor and consequential amendments to Schedule 9 to the Finance Act 2024, in respect of lump sum death benefits, transitional tax-free amount certificates, the availability of the overseas transfer allowance, the calculation of the lifetime allowance previously used amount and the information required between members and pension scheme administrators.
- 4.7 The legislation amends The Registered Pension Schemes (Provision of Information) Regulations 2006⁵ in respect of information about the permitted maximum where funds are transferred. It also makes minor and consequential amendments to these regulations.
- 4.8 The legislation amends regulations in respect of certain payments made by the Pension Protection Fund and the Financial Assistance Scheme, following the removal of the lifetime allowance. It also makes minor and consequential amendments to these regulations:
- The Pension Protection Fund (Compensation) Regulations 2005⁶,
 - The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005⁷,
 - The Pension Protection Fund (Tax) Regulations 2006⁸,
 - The Financial Assistance Scheme (Tax) Regulations 2010⁹,
 - The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations 2011¹⁰, and
 - The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations (Northern Ireland) 2011¹¹.
- 4.9 The legislation also makes minor and consequential amendments to the following:
- Schedule 29 and Schedule 32 to the Finance Act 2004,
 - The Pensions Acts 2004 and 2008, The Pensions (Northern Ireland) Order 2005¹² and the Pensions (No. 2) Act (Northern Ireland) 2008,
 - The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy, etc) Regulations (Northern Ireland) 1997¹³,
 - The Registered Pension Schemes (Accounting and Assessment) Regulations 2005¹⁴,
 - The Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006¹⁵,
 - The Taxation of Pension Schemes (Transitional Provisions) Order 2006¹⁶,

⁵ S.I. 2006/567

⁶ S.I. 2005/670

⁷ S.R. 2005/149

⁸ S.I. 2006.575

⁹ S.I. 2010/1187

¹⁰ S.I. 2011/731

¹¹ S.R. 2011/113

¹² S.I, 2005/255

¹³ S.R. 1997/153 (N.I. 1)

¹⁴ S.I. 2005/3454

¹⁵ S.I. 2006/207

¹⁶ S.I. 2006/572

- The Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011¹⁷, and
- The Pension (Non-Taxable Payments Following Death) (Real Time Information) Regulations 2021¹⁸.

Where does the legislation extend to, and apply?

- 4.10 The extent of this instrument (that is, the jurisdiction(s) of which the instrument forms part of the law) is the United Kingdom.
- 4.11 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

- 5.1 The lifetime allowance was a mechanism for limiting tax-favoured pension savings in registered pension schemes. It was the maximum amount of tax-relieved pension savings an individual could benefit from over the course of their lifetime.
- 5.2 At Spring Budget 2023, the Government announced that it would abolish the lifetime allowance. This was intended to incentivise those considering retirement to remain in employment and to encourage those who had already left the workplace to return. The Finance (No.2) Act 2023 removed the lifetime allowance charge and delivered some changes to support the removal of the charge.
- 5.3 The Finance Act 2024 provided further changes to remove the lifetime allowance from legislation from 6 April 2024. The changes also determined the tax treatment of certain pension savings and introduced new allowances to ensure that individuals would not be able to receive unlimited tax-free lump sums from pension savings which had already benefited from tax relief.
- 5.4 The Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024¹⁹ made technical and consequential provisions to make the pensions tax regime operate correctly following the removal of the lifetime allowance.
- 5.5 Since this legislation was enacted, HMRC has identified further technical and consequential changes necessary to ensure the correct operation of the pensions tax regime following the abolition of the lifetime allowance.
- 5.6 This instrument will affect individuals affected by the abolition of the lifetime allowance. It will ensure all individuals are in the correct tax position and the abolition works as intended. It may also affect some individuals whose benefits would not have been limited by the lifetime allowance.

What was the previous policy, how is this different?

- 5.7 The lifetime allowance was introduced in 2006 to limit the amount of tax-relieved pension savings an individual could benefit from over their lifetime. Individuals could contribute to their pension over this limit, but they were subject to a tax charge on any amounts over this limit.
- 5.8 The Finance Act 2024 removed the lifetime allowance limit and the associated tax charge. It introduced two new allowances that were needed, as a result of removing

¹⁷ S.I. 2011/1793

¹⁸ S.I. 2021/506

¹⁹ S.I. 2024/356

the lifetime allowance, to restrict tax-free elements of lump sums and lump sum death benefits. Lump sums that do not exceed these allowances will be exempt from tax. The element of lump sums that exceed these allowances will be taxable at the individual's marginal rate.

- 5.9 The Finance Act 2024 introduced an overseas transfer allowance. This restricts the tax-free element of transfers to qualifying recognised overseas pension schemes.
- 5.10 The Finance Act 2024 contains approximately 100 pages of legislation required to abolish the lifetime allowance. This instrument remedies errors in that legislation and makes consequential changes to ensure the pensions tax regime operates as intended.
- 5.11 This instrument amends the Taxes Management Act 1970²⁰ so that where a pension scheme administrator, or insurance company, does not issue a transitional tax-free amount certificate within the prescribed time-limit, HMRC may charge them a penalty.
- 5.12 This instrument amends Chapter 15A of Part 9 of the Income Tax (Earnings and Pensions) Act 2003²¹ so that where two or more lump sum death benefits are paid in respect of an individual, those lump sum death benefit payments are treated as though they occurred at the same time. It also determines how much of an individual's lump sum and death benefit allowance each payment uses.
- 5.13 This instrument amends Part 11 of the Income Tax (Earnings and Pensions) Act 2003²², so that certain lump sums become relevant payments for pay as you earn (PAYE) purposes, and that PAYE pension income does not include certain lump sum death benefits. The instrument amends The Pension (Non-Taxable Payments Following Death) (Real Time Information) Regulations) 2021²³, so that a charity lump sum death benefit payment is excluded from reporting for PAYE purposes.
- 5.14 This instrument amends Schedule 36 to the Finance Act 2004 so that where an individual has pension rights of more than £1,500,000 and is relying on primary protection, their lump sum allowance is £375,000 and their protected lump sum and death benefit allowance is £1,800,000. Where an individual previously became entitled to a serious ill-health lump sum and they are relying on enhanced protection, their permitted maximum is nil. This means the member cannot subsequently receive a pension commencement lump sum.
- 5.15 This instrument amends the Finance Acts 2011, 2013, 2014 and 2016, in respect of fixed protection, fixed protection 2014, individual protection 2014 and fixed protection 2016, in relation to the lump sum, and the lump sum and death benefit allowances.
- 5.16 This instrument amends paragraph 126 of Schedule 9 to the Finance Act 2024 to limit the situations in which the appropriate percentage is 100%. Some lump sum death benefits will still be taken into account when calculating the lump sum and death benefit allowance.
- 5.17 This instrument amends paragraph 127 of Schedule 9 to the Finance Act 2024, so that the transitional tax-free certificate will include a member's previously used lifetime allowance amount as a percentage of the standard lifetime allowance for 2023-24.

²⁰ TMA 1970

²¹ ITEPA 2003

²² ITEPA 2003

²³ S.I. 2021/506

- 5.18 This instrument also amends paragraph 127A of Schedule 9 to the Finance Act 2024, so that the individual's 'adjusted lifetime allowance previously used amount' is considered for the purposes of a transitional tax-free amount certificate. It provides the formula for calculating the 'adjusted lifetime allowance previously used amount'; a new concept following the abolition of the lifetime allowance. It also prevents the member's available overseas transfer allowance being excessively reduced where they had previously designated funds for a drawdown pension.
- 5.19 This instrument inserts paragraph 127B, which requires the individual to give a copy of the transitional tax-free amount certificate to all pension schemes of which they are a member, and for those schemes to be informed where the transitional tax-free amount certificate is cancelled. It then provides for a penalty to be charged where an individual fails to provide this information to their pension schemes.
- 5.20 This instrument also amends paragraph 128 of Schedule 9 to the Finance Act 2024 in respect of the conditions for the transitional tax-free certificate. It also amends paragraph 129 in respect of the calculation of the lifetime allowance previously used amount where a member reached age 75 prior to 6 April 2024.
- 5.21 This instrument amends The Registered Pension Schemes (Accounting and Assessment) Regulations 2005²⁴ so that assessments for income tax can be raised on the recipient of a lump sum death benefit, and interest may be charged on late payment of that tax.
- 5.22 This instrument amends The Pension Schemes (Information Requirements for Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006²⁵ so that where a scheme manager notifies a change of circumstance which means a transfer is no longer excluded from the overseas transfer charge or a qualifying recognised overseas pension scheme makes an onward transfer, the amount of overseas transfer allowance that is available upon making the transfer must be reported to HMRC.
- 5.23 This instrument amends The Registered Pension Schemes (Provision of Information) Regulations 2006²⁶ so that where a member is transferring pension funds to a qualifying recognised overseas pension scheme, the member must give the scheme administrator information about their available overseas transfer allowance. A scheme administrator must provide information to the legal personal representative(s) in respect of lump sum death benefits paid. A scheme administrator who is transferring pension funds to another pension scheme must give the receiving scheme information about the member's permitted maximum where sums were paid to or in respect of a member with enhanced protection.
- 5.24 This instrument amends The Taxation of Pension Schemes (Transitional Provisions) Order 2006²⁷, so that where a life cover lump sum is paid, there is no tax liability. It also makes other consequential changes following the removal of the lifetime allowance.
- 5.25 This instrument amends The Pension Protection Fund (Tax) Regulations 2006²⁸, so that certain lump sums paid by the Pension Protection Fund (PPF) may continue to be paid following the removal of the lifetime allowance and will therefore reduce a

²⁴ S.I. 2005/34

²⁵ S.I. 2006/208

²⁶ S.I. 2006/567

²⁷ S.I. 2006/572

²⁸ S.I. 2006/575

member's allowances. This ensures that payments continue to be subject to income tax, as applied under the lifetime allowance.

- 5.26 This instrument provides for the PPF to pay a compensation, and a pension credit, commutation excess lump sum. This ensures members of the PPF are aligned with registered pension scheme members.
- 5.27 This instrument amends The Financial Assistance Scheme (Tax) Regulations 2010²⁹, so that certain lump sums paid by the Financial Assistance Scheme (FAS) may continue to be paid following the removal of the lifetime allowance and will therefore reduce a member's allowances. This ensures that payments continue to be subject to income tax, as applied under the lifetime allowance.
- 5.28 This instrument provides for members of FAS to provide FAS with their transitional tax-free amount certificate and to notify FAS where the certificate is cancelled. This aligns members of FAS with registered pension scheme members.
- 5.29 Finally, this instrument makes minor and consequential changes following the removal of the lifetime allowance to the following, so that the legislation works as intended:
- The Income Tax (Earnings and Pensions) Act 2003,
 - Schedule 29 and Schedule 32 of the Finance Act 2004,
 - The Pensions Acts 2004 and 2008, and the Pensions (No.2) Act (Northern Ireland) 2008,
 - The Pension Protection Fund (Compensation) Regulations 2005³⁰,
 - The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005³¹,
 - The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations 2011³²,
 - The Pensions Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations (Northern Ireland) 2011³³, and
 - other Orders and Regulations, as listed in sections 4.8 and 4.9 above.

6. Legislative and Legal Context

How has the law changed?

- 6.1 In the United Kingdom, before 6 April 2024, there was no limit on the amount of pension savings that an individual could have, but there were limits on the amount of tax relief available, provided for in Part 4 of the Finance Act 2004.
- 6.2 The lifetime allowance set the maximum value of tax relieved pension savings that an individual could benefit from over their lifetime. Where an individual exceeded this limit, a tax charge arose on the excess. Sections 214 to 226 of the Finance Act 2004 provided for the lifetime allowance.
- 6.3 The Finance (No.2) Act 2023 reduced the lifetime allowance tax charge to nil.

²⁹ S.I. 2010/1187

³⁰ S.I. 2005/670

³¹ S.R. 2005/149 (N.I.)

³² S.I. 2011/731

³³ S.I. 2011/113 (N.I.)

6.4 The Finance Act 2024 removed the lifetime allowance from The Finance Act 2004 and updated the pensions tax regime to operate after its removal, including providing for new allowances. Section 14 and Schedule 9 amend Chapter 15A of Part 9 of the Income Tax (Earnings and Pensions) Act 2003³⁴ in relation to the taxation of lump sums under registered pension schemes and certain non-UK unregistered pension schemes.

6.5 This instrument will have effect from 6 April 2024.

Why was this approach taken to change the law?

6.6 The Finance Act 2024 contained 100 pages of legislation to abolish the lifetime allowance. Further changes are needed to correct that legislation and allow the pensions tax regime to operate as intended from 6 April 2024. This instrument is made under the power provided in the Finance Act 2024 to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Since the abolition of the lifetime allowance was announced, HMRC has worked with pension industry representatives to develop and test the legislation needed for the abolition to work as intended, across all aspects of the pensions tax regime. As with previous related legislation, a draft of this instrument has been shared with those industry representatives for a short informal consultation. HMRC received 27 responses. The responses highlighted a few minor amendments, which have been addressed in the regulations. HMRC has not consulted directly with pension scheme members. That contact was made indirectly through these industry representatives.

7.2 HMRC continues to work with pension industry representatives to help them fully understand their obligations for a smooth transition following the abolition of the lifetime allowance and the introduction of the new lump sum, and lump sum and death benefit allowances, and international aspects.

8. Applicable Guidance

8.1 Existing guidance in the HMRC Pensions Tax Manual³⁵ and on the GOV.UK website³⁶ will be updated to reflect the changes provided for by this instrument. Guidance will be published as soon as possible after the instrument is laid.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note³⁷ covering this instrument was published on the GOV.UK website on 22 November 2023.

³⁴ ITEPA 2003

³⁵ HMRC Pensions Tax Manual: www.gov.uk/hmrc-internal-manuals/pensions-tax-manual

³⁶ GOV.UK Pension Scheme Guidance: www.gov.uk/money/pension-scheme-administration

³⁷ Tax Information and Impact Note: www.gov.uk/government/publications/abolition-of-the-lifetime-allowance-from-6-april-2024/abolition-of-the-lifetime-allowance-lta

Impact on businesses, charities and voluntary bodies

- 9.2 HMRC do not expect a significant impact on business, charities or voluntary bodies. Any impact will be from the changes provided for in The Finance Act 2024 rather than this instrument.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 HMRC do not expect a significant impact on the public sector. Any impact will be from the changes provided for in the Finance Act 2024 rather than this instrument.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 This legislation will be monitored through communications with pension industry representatives. This will include the Pension Stakeholder Forum and regular Pension Scheme Newsletters.
- 10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This legislation is connected to the lifetime allowance abolition provisions in Section 14 of, and Schedule 9 to, the Finance Act 2024. This instrument is further to The Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024³⁸.
- 11.2 This instrument is also connected to The Pensions (Abolition of Lifetime Allowance Charge etc) (No.3) Regulations 2024. The No.3 instrument, and this one, provide for technical changes to legislation following the abolition of the lifetime allowance.
- 11.3 Finally, this instrument corrects a minor error in paragraph 130A(2) of Schedule 9 to the Finance Act 2024, which was inserted by the Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024³⁹, as noted by the Select Committee on Statutory Instruments in its 11th report of Session 2023-24⁴⁰.

12. European Convention on Human Rights

- 12.1 Tulip Siddiq The Economic Secretary to the Treasury has made the following statement regarding Human Rights:
- “In my view the provisions of The Pensions (Abolition of Lifetime Allowance Charge etc) (No.2) Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).

³⁸ S.I 2024/356

³⁹ S.I. 2024/356

⁴⁰ Select Committee on Statutory Instruments, 11th report of Session 2023-24:
<https://committees.parliament.uk/publications/44706/documents/222020/default/>