EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (ACCOUNTING AND ASSESSMENT) (AMENDMENT) REGULATIONS 2014

2014 No. 1928

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 (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), ("the principal Regulations") to allow HMRC to assess persons in respect of certain tax liabilities and remove the requirement for these liabilities to be included on a tax return.

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

3.1 None

4. Legislative Context

4.1 Part 4 of Finance Act 2004 ("the Act") made provision for the taxation of payments to and from registered pension schemes. Where tax charges arise, the Act sets out who is liable for the charge. Section 273ZA of the Act provides that regulations may be made in connection with certain non UK schemes that hold an interest in taxable property (as defined in Part 2 of Schedule 29A to the Act). Regulations made under section 273ZA may make provision for the member to be liable for certain tax charges that may arise. Paragraph 19 of Schedule 7 to the Finance Act 2014 amends the Act to insert new section 272C which sets out who is liable for tax charges where a new scheme administrator is appointed following an intervention by the Pensions Regulator.

4.2 Section 255 of the Act enables HMRC to make regulations for and in connection with the making of assessments for certain prescribed tax charges. Section 255 was amended by paragraph 17 of Schedule 7 to the Finance Act 2014 to include any liability arising under new section 272C. The regulations are made under this amended power.

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 Pensions tax relief is provided so that funds are used to provide benefits for the member and/or their dependants in later life. There are also limits on the amount of tax relieved pension savings that an individual can have in each year, the annual allowance, as well as over their lifetime, the lifetime allowance. Where funds are used other than to provide benefits as set out in the Act or pension savings exceed the annual or lifetime allowance then tax charges apply intended to recover the tax relief previously given.

7.2 Where tax charges apply the Act sets out who is liable for the tax charges. Normally these charges would be assessable via the annual Self-Assessment tax return for the individual. However in certain circumstances it is not desirable to have the liability included within the annual tax return and therefore an alternative mechanism for assessing the liability is required. This is provided for by the principal Regulations. As a result of changes in Finance Act 2014, there are new circumstances when a person may be liable for certain tax charges. The principal Regulations are therefore being amended by this instrument to allow HMRC to assess the person liable for these tax charges and remove the requirement for these tax charges to be self-assessed. This instrument also removes the requirement for certain tax charges relating to non UK schemes to be included within a Self-Assessment tax return as this would not be practical, and allows instead for these liabilities to be assessed by HMRC.

- Consolidation

7.3 There are no plans to consolidate the instrument that is being amended.

8. Consultation outcome

8.1 As the Regulations make minor consequential amendments to existing regulations no consultation has been necessary.

9. Guidance

9.1 The guidance will be updated at the next available opportunity after this instrument come into force to reflect the changes.

10. Impact

10.1 This instrument will have little or no impact on business, charities or voluntary bodies as the changes concern how certain tax charges relating to pension schemes are assessed on the relevant person.

10.2 The impact on the public sector is the same as for other businesses.

10.3 A Tax Information and Impact Note was published on 19 March 2014 and is available on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 This instrument applies to small business.

11.2 This instrument applies in the same way to small businesses as it does to any other business. Because of the nature of information to be provided, it would not be appropriate to have different requirements for small businesses.

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 Tel: 03000 564209 or email: pensions.policy@hmrc.gsi.gov.uk , can answer any queries regarding the instrument.