EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES AND RELIEVED NON-UK PENSION SCHEMES (LIFETIME ALLOWANCE TRANSITIONAL PROTECTION) (INDIVIDUAL PROTECTION 2014 NOTIFICATION) REGULATIONS 2014

2014 No. 1842

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 sets out how an individual must give notice to HMRC if they intend to rely on individual protection 2014 ("IP14") to reduce or eliminate any potential lifetime allowance charge from April 2014 when the lifetime allowance for UK tax relieved pension savings was reduced from £1.5 million to £1.25 million for tax year 2014-15 onwards. It also sets out what happens if the notice is refused or if the individual no longer meets the conditions for IP14.

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

3.1 None.

4. Legislative Context

4.1 Part 4 of the Finance Act 2004 ("the Act") made provision for the taxation of registered pension schemes. The Act introduced an overall limit on the amount of UK tax relieved pension savings that an individual can make, this is known as the LTA (sections 218 to 226 of the Act). Any pension savings that exceed the LTA when benefits are taken are subject to a charge to income tax known as the LTA charge (section 214 of the Act).

4.2 Section 48 of the Finance Act 2013 amended section 218 of the Act and reduced the lifetime allowance from £1.5 million to £1.25 million for the 2014-15 tax year onwards. Part 1 of Schedule 6 to the Finance Act 2014 introduced a new transitional protection regime, IP14, for those who think they may be affected by the reduction in the LTA and who had total UK tax relieved pension savings of greater than £1.25m on 5 April 2014. IP14 gives individuals a personalised LTA based on the value of their pension savings on 5 April 2014, subject to an overall limit of £1.5 million.

4.3 Paragraph 8 of Schedule 6 to the Finance Act 2014 provided the power for HMRC to make Regulations specifying how an individual must give notice to HMRC if they want to rely on IP14. Paragraph 9 states that the Regulations may include supplementary

or incidental provisions. This is the first time that Regulations have been made using the powers in paragraphs 8 and 9 of Schedule 6.

4.4 This instrument is also made under section 251 of the Act which allows HMRC to impose specified information requirements on certain prescribed persons.

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 take responsibility for retirement planning and to recognise that pensions are less flexible than other forms of saving. However, the cost of tax relief net of income tax on pensions has almost doubled over the last decade to an annual cost of around £35 billion by 2011-12. Reform to pensions tax relief is an integral part of the Government's deficit reduction package and as part of these reforms the Government has introduced restrictions to the amount of tax-free pension savings that can be made to ensure that pensions tax relief remains fair, affordable and sustainable.

7.2 The level of the standard lifetime allowance reduced from £1.5 million to £1.25 million from the 2014-15 tax year onwards. In recognition that reducing the lifetime allowance created a potential issue for individuals who may have already built up pension pots in the expectation that the lifetime allowance would remain around its previous level of £1.5 million, a transitional protection regime 'fixed protection 2014' (FP14) was introduced to support individuals who had already made pension savings decisions based on the previous level of the lifetime allowance. Individuals with FP14 have a personalised LTA of £1.5 million but in return they had to stop contributing to money purchase schemes and cease to accrue new benefits in defined benefit or cash balance schemes. FP14 however potentially created a 'cliff-edge' for pension savers (and members of defined benefit schemes in particular), as in effect it required individuals to opt out of active membership of their scheme and become a deferred member.

7.3 The introduction of IP14 was intended to help those who want the flexibility of continuing to save in their pension scheme but are affected by the reduced lifetime allowance. IP14 is therefore of particular benefit for those who wanted to continue saving in their pension scheme after 6 April 2014, albeit that they will have a lower LTA than with FP14 and will be subject to LTA charges on the additional savings

7.4 In order to rely on IP14, individuals must give notice to HMRC. Where a valid notice is received by HMRC, HMRC will either issue a certificate to the individual setting out their personalised lifetime allowance or where the individual has an existing live transitional protection (enhanced protection, fixed protection 2012 or fixed protection 2014), they will issue an acceptance letter. Where the individual has an existing live transitional protection their IP14 protection will remain dormant until such time as the existing protection is no longer valid. Individuals must present their IP14 certificate to the scheme administrator each time they crystallise any of their pension benefits if they want to benefit from IP14. This instrument sets out the process for individuals to apply for IP14.

- Consolidation

7.5 The instrument does not amend another instrument so consolidation is not an issue.

8. Consultation outcome

8.1 This instrument was subject to consultation as part of the formal consultation 'Pensions Tax Relief – Individual Protection from the Lifetime Allowance Charge' which was published on 10 June 2013. A summary of responses to this consultation was published on 10 December 2013.

8.2 Following the consultation, this instrument has been amended to reflect a change in the eligibility conditions for IP14. Some minor drafting changes have also been made.

9. Guidance

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

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible as this instrument specifies the information individuals have to provide and what actions HMRC have to take when an individual wishes to rely on IP14.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note was published on 10 June 2013 and updated on 10 December 2013 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

Samantha Skill at HMRC Tel: 03000 564149 or email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.