EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES AND RELIEVED NON-UK PENSION SCHEMES (LIFETIME ALLOWANCE TRANSITIONAL PROTECTION) (NOTIFICATION) REGULATIONS 2013

2013 No. 1741

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 may give notice to HMRC that they intend to rely on a new form of transitional protection to reduce or eliminate any potential lifetime allowance charge from April 2014. This is known as Fixed Protection 2014 ("FP2014") in accordance with Part 1 of Schedule 22 to Finance Act 2013.

2.2 This instrument sets out the steps the individual and HMRC have to take to enable an individual to rely on FP2014 and what happens if the notice is refused or if the individual no longer meets the conditions for FP2014.

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") came into force on 6 April 2006 and makes provision for registered pension schemes. The Act put in place a single regime for tax privileged pension saving, with a number of key controls including: the annual allowance (an annual cap on tax-relieved saving – section 228 of the Act) and the lifetime allowance (a lifetime cap on tax-relieved saving – section 218 of the Act).

4.2 The lifetime allowance acts as a ceiling on the total amount of tax relieved pension savings an individual can amass during their lifetime. A tax charge - the lifetime allowance charge (section 214 of the Act) - acts as a deterrent to amassing pension savings greater than the lifetime allowance. The purpose of the lifetime allowance charge is to recoup tax reliefs given on the amount by which the savings exceed the lifetime allowance by imposing a tax charge of effectively 55% on that excess.

4.3 Section 48 to Finance Act 2013 (FA2013) amends section 218 of the Act so that the standard lifetime allowance is reduced from the current limit of £1,500,000 to £1,250,000 for the 2014-15 tax year onwards.

4.4 Paragraph 1(2) of Schedule 22 to FA 2013 provides that an individual with FP2014 will be treated as if their lifetime allowance is the greater of:

- the standard lifetime allowance and
- £1,500,000.

4.5 In order to take advantage of FP2014 the individual must meet certain conditions and must notify HMRC of their intention to rely on paragraph 1(1) of Schedule 22.

4.6 Paragraph 3(1) of Schedule 22 provides the power for HMRC to make Regulations specifying how notice is to be given and paragraph 4(1) says that the Regulations may include supplementary or incidental provisions. This is the first time that an instrument has been made using the power in paragraphs 3 and 4 (1) of Schedule 22. This instrument is also made under section 251 of the Act which allows HMRC to impose certain information requirements.

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 generous 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. 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 will reduce from its current level of £1,500,000 to £1,250,000 from the 2014-15 tax year onwards.

7.3 In recognition that reducing the lifetime allowance creates a potential issue for individuals who may have already built up pension pots on the expectation that the lifetime allowance would remain around its current level of £1,500,000, the Government introduced a transitional protection regime to support individuals who had already made pension savings decisions based on the current level of the lifetime allowance.

7.4 Individuals can therefore apply for transitional protection under which the lifetime allowance charge applies in relation to their pension savings as if the lifetime allowance is the greater of £1,500,000 and the standard lifetime allowance. In return for this protection they must, by 6 April 2014, cease all contributions to any defined contribution arrangement and stop accruing new benefits above prescribed limits in any defined benefit or cash balance arrangement in a registered pension scheme. There are other conditions which the individual must satisfy set out in Schedule 22.

7.5 This instrument sets out the process for how individuals notify HMRC of their intention to rely on the transitional protection and the actions HMRC have to take.

- Consolidation

7.6 The instrument does not amend another instrument so consolidation is not relevant.

8. Consultation outcome

8.1 The instrument was published in draft alongside the draft Finance Bill on 11 December 2012. No major issues were raised. Minor changes were made following the end of the consultation period.

9. Guidance

9.1 The Registered Pensions Scheme Manual will be updated at the earliest opportunity to reflect this change.

10. Impact

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

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note ('TIIN') concerning the restriction of pensions tax relief was published on 11 December 2012 and updated on 20 March 2013 alongside the Finance Bill 2013. The TIINs are available on the HMRC website at www.hmrc.gov.uk/thelibrary/tiins.htm. Together they remain an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does apply to small businesses.

11.2 The impact of this instrument on small businesses has been considered as part of the consultation but is negligible for all business.

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, telephone: 03000 564149 or email: pensions.policy@hmrc.gsi.gov.uk, can answer any queries regarding this instrument.