EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (PROVISION OF INFORMATION) (AMENDMENT) REGULATIONS 2013

2013 No. 1742

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.

This memorandum contains information for the Special Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567) ("the Regulations"). The Regulations require individuals, sponsoring employers of occupational pension schemes and scheme administrators to supply specified information to HMRC and others in connection with registered pension schemes.

2.2 This instrument amends the Regulations to specify the information that must be provided to scheme administrators and HMRC where an individual relies on fixed protection 2014 ("FP14"). Changes are also made to require information to be reported by individuals and scheme administrators in connection with certain overseas transfers and to require scheme administrators to report when a pension savings statement is given to a scheme member because their savings in that pension scheme exceed the annual allowance ("AA").

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

3.1 This instrument contains a provision having effect from 6 April 2013 which is before the instrument comes into force, using the power in section 282(A1) of the Finance Act 2004.

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 put in place a single regime for tax privileged pension saving, with two key controls on the amount of tax relief available, the lifetime allowance ("LTA") (section 218 of the Act) and the AA (section 228 of the Act). Any pension savings that exceed the LTA are subject to a charge to income tax known as the LTA charge (section 214 of the Act) and any savings that exceed the AA are subject to a charge to income tax, known as the AA charge (section 227 of the Act).

4.2 Section 48 of the Finance Act 2013 ("FA 2013") amends section 218 of the Act to reduce the LTA from £1,500,000 to £1,250,000 from the 2014-15 tax year. Section 49 of FA 2013 amends section 228 of the Act to reduce the AA from £50,000 to £40,000 from the 2014-15 tax year. Regulation 14A of the Regulations require scheme administrators to provide to an individual a pensions savings statement where the individual has exceeded the AA in a tax year in a pension scheme.

4.3 Paragraph 1 of Schedule 22 to FA 2013 provides transitional protection (FP14) from the reduced LTA and provides that an individual may notify HMRC if they want to rely on a LTA of £1,500,000 from 6 April 2014, but in return they must cease to accrue any new benefits above a prescribed limit in registered pension schemes. The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013 (S.I. 2013/1741) set out the requirements for an individual to notify HMRC that they intend to rely on FP14 and for HMRC to provide the individual with a certificate.

4.4 Section 251 of the Act provides that HMRC may make provision in Regulations requiring persons of a prescribed description to provide information to HMRC or other persons in relation to matters relating to registered pension schemes. This instrument is made under sections 251 and 282 (A1) and imposes the information requirements necessary to support the changes made by FA 2013. The changes extend the current information requirements for members and scheme administrators relating to the existing transitional protections to FP14 to enable HMRC to monitor compliance with the transitional protection regimes. The changes also extend current requirements in respect of the AA to enable HMRC to monitor compliance with the AA.

4.5 This instrument also extends the information required to be reported in respect of transfers to qualifying recognised overseas pension schemes (QROPS) so that HMRC is notified if the member is no longer resident in the UK. This requirement will enable HMRC to monitor compliance with the QROPS tax regime.

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***

Fixed Protection 2014 ('FP14')

7.1 The level of the standard LTA will reduce from its current level of £1,500,000 to £1,250,000 from the 2014-15 tax year onwards. In recognition that reducing the LTA creates a potential issue for individuals who may have already built up pension pots on the expectation that the LTA 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, called fixed protection 2014 or 'FP14'.

7.2 Individuals with FP14 have an LTA of the greater of £1,500,000 and the standard LTA. In order to monitor compliance with FP14, this instrument sets out the information that scheme administrators and individuals must provide in connection with FP14.

Annual Allowance reporting

7.3 To help savers, pension scheme administrators are required to supply individuals with a pension savings statement if their pension savings for a tax year are greater than the AA. This instrument introduces a new reporting requirement for scheme administrators to notify HMRC when they provide an individual with a pension savings statement. Scheme administrators notify HMRC using the on-line reporting form known as the event report. This new requirement will aid HMRC monitor compliance with the AA. Pension scheme administrators are also required to supply a pension savings statement if the individual requests one, but these do not have to be reported on the event report.

Qualifying Registered Overseas Pension Schemes – reporting requirements

7.4 There is also a minor addition to the reporting requirements for individuals who are not UK resident and want to transfer their UK pension savings overseas. They will have to notify their UK scheme administrator of the date they ceased to be UK resident. The scheme administrator will then have to report that information to HMRC.

- Consolidation

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

8. Consultation outcome

8.1 The instrument was published in draft on 17 May 2013. No major issues were raised. Some clarification was sought and this will be covered in guidance.

9. Guidance

9.1 The Registered Pension Schemes Manual will be updated at the next available opportunity to reflect the changes.

10. Impact

10.1 This instrument will impact on business, charities and voluntary bodies where they are administrators of registered pension schemes, as it introduces new reporting requirements for pension scheme administrators in specified circumstances.

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

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. A separate TIIN covering the changes to the QROPS regime in regulations 4(3) and 6 was published on 24 May 2013. A TIIN covering the new reporting requirement in regulation 4(4) was published on 17 May 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 applies to small business but the impact will be proportionately less on 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.