EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (PROVISION OF INFORMATION) (AMENDMENT) REGULATIONS 2016

2016 No. 308

1. Introduction

1.1 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 (Provision of Information) Regulations 2006 (S.I. 2006/567) ("the 2006 Regulations"). It changes information requirements for scheme administrators of a registered pension scheme in consequence of the introduction of a tapered reduction in the amount of the annual allowance for individuals with income of over £150,000 from 6 April 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Tax relief is provided on pension savings in order that those savings can be used to provide benefits later in life for the member and their beneficiaries. Part 4 of the Finance Act 2004 ("FA04") sets out the regime for the registration of pension schemes and the system of tax reliefs that apply to them. The 2006 Regulations are made under powers contained in Chapter 7 of Part 4 and set out in detail the information that must be provided by prescribed persons at set events.

4.2 Regulation 14A sets out the information that a pension scheme administrator must provide to a pension scheme member in relation to the annual allowance.

4.3 Changes to FA04 were made by Schedule 4 to the Finance (No. 2) Act 2015, to introduce a taper so that the normal annual allowance of £40,000 is reduced by £1 for every £2 of income that an individual has over £150,000, with the maximum reduction being to £10,000 for those with incomes of £210,000 and above.

4.4 To assist the application of the taper Schedule 4 aligned the period by reference to which an individual's pension savings are measured against the annual allowance with the tax year from 6 April 2016, with transitional rules for tax year 2015-16.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 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 save for their retirement. Under FA04, there are no limits on the amount that an individual can save into a registered pension scheme each year, but there is a limit on the amount of tax relieved pension savings that can be made each year. This is the annual allowance. Where pension savings are made in excess of the annual allowance plus any carry forward of unused annual allowance from the previous three years available to the individual, a tax charge is applied to the excess to recover the tax relief given on the excess savings.

7.2 A member's pension savings for a tax year are tested against the annual allowance over a 12 month period but this does not necessarily match the tax year. This period is known as the pension input period. In order to facilitate the application of the taper, the pension input period will be aligned with the tax year from 6 April 2016 with transitional rules for the tax year 2015-16. Aligning pension input periods with the tax year will make it easier for individuals to work out whether their pension savings have exceeded the annual allowance.

7.3 Under the transitional rules, for the purposes of the annual allowance the 2015-16 tax year is treated as consisting of two tax years, the pre-alignment tax year (6 April – 8 July 2015) and the post-alignment tax year (9 July 2015 – 5 April 2016). As scheme administrators are required to provide information to scheme members in relation to the annual allowance for a tax year, this instrument clarifies what information is to be provided in relation to the tax year 2015-16 so the member has the information they need to determine whether or not they may be liable to an annual allowance charge for that year.

7.4 This instrument therefore inserts a new paragraph 14A(1A) into the 2006 Regulations, which specifies how the information requirements in regulation 14A are to be applied for tax year 2015-16.

7.5 New paragraph (1A)(a) provides that the default position is that tax year 2015-16 is to be treated as a single tax year for the purposes of the information requirements in regulation 14A.

7.6 New paragraph (1A)(b) modifies the condition in regulation 14A(1)(b)(i) so that a scheme administrator will only be required to provide a pension savings statement to a scheme member for tax year 2015-16 if either the member's pension input amounts for tax year 2015-16 as a whole exceed £80,000, or the member's pension input amounts for the post-alignment tax year exceed £40,000.

7.7 New paragraph (1A)(c) specifies a number of provisions in regulation 14A to which the default position under new paragraph (1A)(a) does not apply. Where information is required to be provided under any of those provisions, that information must be provided separately for the pre-alignment and post-alignment tax years.

7.8 New paragraphs (1A)(d) to (f) provide that certain information that is normally required to be provided under regulation 14A does not have to be provided for tax year 2015-16.

Consolidation

7.9 There are currently no plans to consolidate the 2006 Regulations.

8. Consultation outcome

8.1 This instrument was published on 27 January 2015 for a three-week technical consultation in line with the Tax Policy Framework. There were 20 responses, most of which raised issues that were minor and technical in nature. One substantive point was raised, in relation to a proposed requirement to provide a pensions savings statement to individuals whose pensionable earnings exceed £110,000 in the tax year.

8.2 The majority of respondents held that this requirement would be extremely burdensome for pension schemes as they do not hold this information. They also identified that this would be extremely burdensome for schemes linked to multiple employments. As a result this instrument does not require scheme administrators to provide a pension savings statement in those circumstances. Individuals with income of £110,000 or more will be able to request a statement under the 2006 Regulations, but the scheme will not be required to provide a statement unless they are asked to do so by the individual.

9. Guidance

9.1 The HMRC Pensions Tax Manual will be updated as soon as possible to reflect these changes. This will include guidance on the interaction between new regulation 14A(1A) and the existing information requirements in regulation 14A.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not expected to be significant.

10.2 The impact on the public sector is not expected to be significant.

10.3 A Tax Information and Impact Note was published on 8 July 2015 alongside the Finance (No. 2) Bill as part of the Summer Budget 2015 and is available at: www.gov.uk/government/publications/pensions-tapered-annual-allowance. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by 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

13.1 Anne Smith at HMRC, telephone: 03000 512336 or email: pensions.policy@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.