

What are the latest Abolition of Lifetime Allowance Regulations for?

The abolition of the Lifetime Allowance ("LTA") and its replacement with three new allowances was legislatively complex. Civil servants were not given much time to lay the groundwork, in their defence. So we found ourselves, in November 2024, still needing dozens of regulations to tidy up the new regime.

Legislative fixes have duly arrived in the shape of *The Pensions (Abolition of Lifetime Allowance Charge etc) (No. 2) Regulations 2024* (SI [2024/1012](#), "the No. 2 Regs") and *The Pensions (Abolition of Lifetime Allowance Charge etc) (No. 3) Regulations 2024* (SI [2024/1167](#), "the No. 3 Regs").

We are in a slightly unusual position of having regulations that came into force in mid-November while having retrospective effect back to 6 April 2024. Effectively, with one exception, we are going to pretend that provisions in force between 6 April and 18 November 2024 were not there! (Fortunately, Aries will exist as a permanent record of this anomaly.)

A case in point are paragraphs 12 (3B)-(3H) of [Schedule 36](#) of the *Finance Act 2004* ("FA04"). They were inserted on 6 April 2024 by paragraph 71 (2) of [Schedule 9](#) of the *Finance Act 2024* ("FA24") and will be

repealed from the same date by regulation 8 (4)(b) of the No. 2 Regs.

HMRC's Pension Schemes Newsletter ("PSN") [158](#) landed shortly before *The Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024* (SI [2024/356](#), i.e. "the No. 1 Regs") took effect. It promised further "minor technical changes made through a second set of regulations" which would "be made shortly". Of course, "a second" became "a second and third" and "shortly" became "in six months" (for the understandable reason of a General Election, we should add).

PSN 158 then set out the changes to be made and highlighted some further areas still under consideration. This Insight cross references those commitments against what the regulations will actually deliver.

Transitional Arrangements - cancellation of a transitional tax-free amount certificate ("TTFAC")

A TTFAC may be revoked where it is found to be erroneous. If a relevant benefit crystallisation event ("RBCE") has occurred before the revocation of the certificate, those previous RBCEs need to be recalculated based on the actual transitional tax-free amounts. The individual may then be liable to pay further tax.

However, where the revocation of a TTFAC reveals that the member should have had no Lump Sum Allowance ("LSA") available, it is possible that previous payments were unauthorised. This is not the intention. They should instead be fully taxable at the individual's marginal rate.

Regulation 5 of the No. 3 Regs covers this off by adding to *The Registered Pension Schemes (Authorised Payments) Regulations 2009* (SI [2009/1171](#)). It creates two new authorised payments:

1. Commencement lump sums paid in reliance on inaccurate TTFACs, and
2. Other lump sums paid in reliance on inaccurate TTFACs.

The first new authorised payment here covers excessive pension commencement lump sums ("PCLS") payments, whilst the second covers payments that were intended to be trivial commutation lump sums or winding up lump sums.

Transitional arrangements - PCLS and uncrystallised funds pension lump sum ("UFPLS") after age 75

Before the LTA abolition, the payment of a PCLS or UFPLS after age 75 was not a benefit crystallisation event ("BCE"). This made sense as the individual's remaining uncrystallised benefits would have been tested against the LTA at age 75. However, when applying for a TTFAC, lump sums that were not BCEs (i.e. because they were paid after age 75) are not counted.

Regulation 7 of the No. 2 Regs addresses this by removing paragraph 2 from Schedule 32 of FA04, which said:

"The only sort of event that constitutes a benefit crystallisation event in relation to the individual after the individual has reached the age of 75 is an event that constitutes benefit crystallisation event 3."

The effect of this is that, for the purposes of providing a TTFAC, the payment of a PCLS or UFPLS after age 75 must be taken into account. This ensures that the tax-free element of any lump sum the member may have received between 6 April 2006 and 5 April 2024 is reflected in the TTFAC.

Transitional arrangements - TTFACs and annual RBCE statements

Where an individual has a TTFAC in force, RBCE statements must show the actual amounts of LSA and Lump Sum and Death Benefit Allowance ("LSDBA") used. The statement should not assume the standard transitional calculation.

There has not been a requirement on members to notify all their schemes that they have a TTFAC in force. As a result, schemes may report incorrect information. Regulation 17(5) of The No. 2 Regs introduces a new requirement for members who have a TTFAC in force to notify all other schemes accordingly. This new requirement is added to Schedule 9 of FA24 as paragraph 127B.

Transitional arrangements - applications for a TTFAC

As originally introduced, FA24 provided that, to obtain a TTFAC, individuals could only apply to registered pension schemes they are a member of. Where an individual has crystallised all their rights through the purchase of an annuity, this meant they (or their legal personal representatives) could not apply for a TTFAC.

Regulations 17 (3) and (7)(c) of the No. 2 Regs address this by creating the concept of a 'certification administrator' to whom an application for a TTFAC can be made. This can be either a registered pension scheme (its scheme administrator) or an insurance company (from which a registered pension scheme has secured the payment of a lifetime annuity or scheme pension in respect of the member).

Reporting requirements - provision of information between schemes

Lump sum death benefits paid from funds that crystallised prior to 6 April 2024 should not reduce an individual's LSDBA. However, where a member transfers to a new provider, there is no requirement for the scheme making the transfer to provide the receiving scheme with any information about the split between funds crystallised before and on/after 6 April 2024.

Regulation 24(7) of the No. 2 Regs amends *The Registered Pension Schemes (Provision of Information) Regulations 2006* (SI [2006/567](#)), specifically regulation 15. It stipulates that the amounts of the member's LSA and LSDBA expended (under the transferring scheme and in respect of the benefits being transferred) must be given for each 'reportable period'. These are the period ending 5 April 2024 and the period between 6 April 2024 and the date of the statement.

Enhanced protection – transferring to a new provider

It was meant to be possible for individuals with enhanced protection to transfer their benefits and carry over their protection to the receiving arrangement. Permitted maximums for a lump sum or lump sum death benefit operate on a per arrangement basis and consider the amount available under that arrangement on 5 April 2024. The interactions were not operating as intended.

To address this, new sub-paragraphs 12A (4)-(6) are added to Schedule 36 of FA04 by regulation 8 (5) of the No. 2 Regs.

Enhanced protection and primary protection – protected lump sum rights of more than £375,000

For a lump sum to be a PCLS, one of the conditions is:

“it is paid when all or part of the member's lump sum allowance is available, and all or part of the member's lump sum and death benefit allowance is available”.

This is paragraph 1(b) of [Schedule 29](#) to FA04. HMRC acknowledged that changes were needed to this provision as it prevents individuals – who have either enhanced protection or primary protection and

protected lump sum rights – from taking a PCLS over their LSA of £375,000.

To address this:

- For members with enhanced protection, paragraph 27 of Schedule 36 of FA04 is amended by regulation 8 (18) of the No. 2 Regs to remove the 'available LSA' restriction.
- For members with primary protection, paragraph 28 of Schedule 36 of FA04 is amended by regulation 8 (19) of the No. 2 Regs to remove the 'available LSA' restriction.

Lump sum death benefits (“LSDBs”) – payments from funds which crystallised prior to 6 April 2024

Payments of LSDBs from funds that crystallised prior to 6 April 2024 may (unintentionally) have been limited by the member's available LSDBA (the 'permitted maximum'). The policy intent was that the payment of LSDBs from such funds are entirely tax-free.

Regulation 17 (10) of the No. 2 Regs addresses this. Such payments are now termed 'transitional lump sum death benefits' and are to be excluded from the benefits that must be tested against the member's available LSDBA.

The Newsletter also announced plans for several consequential amendments:

Amend various references to BCEs and to the LTA in *The Taxation of Pension Schemes (Transitional Provisions) Order 2006* (SI [2006/572](#))

Regulation 25 of the No. 2 Regs makes several changes to this order for purposes including:

- providing that no liability to income tax arises on a life cover lump sum;
- modifications regarding LSDBA enhancement factors for relevant overseas individual's rights under a money purchase arrangement; and
- equivalent modifications for other arrangement types.

Regulation 4 of the No. 3 Regs also amends SI 2006/572 for purposes including:

- correcting the definition of “permitted maximum” in relation to the entitlement to lump sums exceeding 25% of uncrystallised rights where the member has taken a partial transfer out;
- updating how the additional lump sum entitlement is calculated in specified cases where the member dies before entitlement to all associated pensions arises;

- clarifying the pension condition for entitlement to lump sums exceeding 25% of uncrystallised rights; and
- ensuring that certain enhancements to an individual's available LSDBA immediately before becoming entitled to a stand-alone lump sum are disregarded.

Amend various cross-references within The Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (SI [2006/207](#)) to Chapter 15A Income Tax (Earnings and Pensions) Act 2003 where these no longer align to the correct sections

Regulation 22 of the No. 2 Regs inserts the term “ring-fenced transfer fund” into one of its paragraphs and corrects the numbering of another.

Remove the reference to BCE 5 in The Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011 (SI [2011/1793](#))

Regulation 30 of the No. 2 Regs substitutes regulation 2 (3) of these regulations to remove the possibility of a BCE 5, 5A, or 5B occurring for the purposes of the information to be disclosed in the Notice of Joint Liability for the Annual Allowance Charge.

Overseas transfer allowance (“OTA”) – benefits crystallised into drawdown

Individuals who designated to drawdown prior to 6 April 2024 have their OTA reduced by 100% of their LTA previously-used amount. If these same funds are transferred to a QROPS after 6 April 2024, they will again be deducted from the OTA; effectively double counted.

Regulation 17(4) of the No. 2 Regs addresses this by amending paragraph 127A of Schedule 9 of the FA24 (which was, itself, only added to the Act earlier this year by the No. 1 Regs).

OTA – pre A-day [6 April 2006] benefits

That same provision from the No. 1 Regs fails to deduct benefits in payment prior to 6 April 2006 (“pre-commencement pension rights”) unless the member had a BCE between A-day and 5 April 2024. Without a test against the LTA, any pre-commencement pension rights were unintentionally overlooked.

Regulation 3 (2) of the No. 3 Regs corrects this. It inserts paragraph 20 (2A) into Schedule 36 of FA04, which provides that, in these circumstances, the member’s available OTA is reduced to reflect the value of their pre-commencement pension rights.

Scheme-specific lump sum protection – calculating a member’s entitlement

PSN 158 says that regulation 3 of The No. 1 Regs made changes to “paragraph 24 [sic] of Schedule 36”, FA04 to provide for “the calculation for the additional lump sum amount where a member holds scheme-specific lump sum protection.” The PSN here should, of course, have referred to paragraph **34** of Schedule 36.

The newsletter also said that further legislation was needed to prevent the formula double counting certain benefits.

The necessary changes (to paragraph 34) have been made by Regulation 3 (8) of the No. 3 Regs.

Scheme-specific lump sum protection – reduction to an individual’s LSA

On the payment of a PCLS under scheme-specific lump sum protection, a member’s lump sum allowances *should be* reduced by 25% of the total value of that lump sum plus the pension connected to it. It wasn’t working that way.

Reg 3 (9) of the No. 3 Regs amends Section 637Q of the Income Tax (Earnings and Pensions) Act 2003 to address this issue.

Financial Assistance Scheme ("FAS") and Pension Protection Fund ("PPF")

Some regulations that provide for the tax treatment of lump sums paid by the FAS and PPF refer to legislation which has been repealed or amended due to the abolition of the LTA. Furthermore, amendments were needed to ensure that any lump sums that were previously tested against the LTA will be tested against either:

- the LSA, or
- both the LSA and LSDBA.

The No. 2 Regs address this through amendments to secondary legislation:

Regulation 26 amends The Pension Protection Fund (Tax) Regulations 2006 (SI [2006/575](#))

Regulation 27 amends The Financial Assistance Scheme (Tax) Regulations 2010 (SI [2010/1187](#))

Regulation 28 amends The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations 2011 (SI [2011/731](#))

Regulation 29 amends The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011 (SR [2011/113](#))

Other Commitments

In [Lifetime allowance guidance newsletter: March 2024](#), another change was promised in answer to a frequently asked question.

Question 10 asked why there was no longer a floor of the 'standard' allowances for those with Individual Protection 2014 or 2016 whose relevant amount falls below £1,073,100?

This was not the intention, so the No. 2 Regs reinstated those floors via regulations 15 (3) and 16 (3).

Earlier still, [Lifetime allowance guidance newsletter: February 2024](#) promised changes. Question 4 pointed out that payment of a trivial lump sum still required available LTA thanks to article 23C of *The Taxation of Pension Schemes (Transitional Provisions) Order 2006* (SI [2006/572](#)).

This is the purpose of regulation 25 (14) of the No. 2 Regs, requiring the member to have some LSA available.

[PSN 159](#) followed 158 naturally enough and promised two more sets of changes.

A technical error with regulation 4 (23) of the No. 1 Regs removed a statutory override that some schemes rely on. Regulation 17 (11) of the No. 2 Regs is here to save the day.

The other technical error affected the standard transitional calculation at paragraph 126 (4) (a) (ii) of Schedule 9, FA24. This provides that the appropriate percentage is 100% in cases where any LSDB has been paid in respect of an individual before 6 April 2024. However, prior to 6 April 2024, only certain Uncrystallised Funds Lump Sum Death Benefits ("UFLSDB") and a Defined Benefit Lump Sum Death Benefits ("DBLSDB") were BCEs. The other four LSDBs that are RBCEs from 6 April 2024 were never BCEs and so would not have been paid tax-free up to the LTA.

Correcting this is the job of regulation 17 (2) of the No. 2 Regs, which provides that a 100% reduction only applies where a DBLSDB or UFPLSDB was paid and certain other conditions are met.

Final Thoughts

Of course, there are more provisions in the Regs than covered here. In some cases, these are as a consequence of the other corrections. For example, the ability to transfer enhanced protection to another arrangement required extra disclosure requirements on the transferring scheme (see regulation 24 (5) of the No. 2 Regs).

In other cases, there will no doubt have been further discoveries since PSN 158 that the Government wished to tackle. Aries will continue the work of analysing the regulations line by line to identify their implications.

Were there any other gaps in the legislation you had identified that were not addressed by these regulations?

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