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# LEGAL

## Finance Act receives Royal Assent

After much waiting, the Finance Act 2016 ('the Act') received Royal Assent on 15 September 2016. It contains some noteworthy points in respect of pensions, including:

### Reduction in the lifetime allowance

The reduction of the standard lifetime allowance (LTA) to £1million from 6 April 2016 was given temporary legal effect by Budget Resolutions passed on 22 March 2016. The Act formalises [both] this and the annual increase in the LTA in-line with the consumer price index (CPI) from the tax year 2018-19.

### Introduction of Fixed Protection 2016 (FP16) and Individual Protection 2016 (IP16)

The Act introduces two new transitional protections for individuals.

- FP16 is relevant to anyone whose pension savings exceeded £1 million at 5 April 2016, or are likely to exceed that amount by the time they come into payment. FP16 allows an individual to maintain a LTA of the greater of £1.25 million and the standard LTA, but will be lost in a number of circumstances (for example, in a DC arrangement, if contributions are paid to the scheme by the member or someone on their behalf)
- for individuals with pension rights over £1 million on 5 April 2016, IP16 gives a personal LTA equal to the value of their pension savings on 5 April 2016, subject to a cap of £1.25 million. In contrast to FP16, individuals with IP16 can continue to accrue pension
- individuals wishing to rely on the new protections must apply to HM Revenue and Customs (HMRC) online for a reference number before taking benefits. Members will no longer receive paper certification, but can view details online. Temporary reference numbers (obtained before the online system was established) will continue to be recognised, but HMRC strongly recommends that individuals follow-up online to obtain a permanent protection notification number. There are no application deadlines for these protections.

### Simplification of test for dependants' scheme pension

The Act includes provisions to simplify the test that takes place when a dependant's scheme pension is payable in respect of a member who dies aged over 75, with a view to reducing the current administrative burden.

### Inheritance tax and undrawn pension funds

No charge to inheritance tax will arise when a member designates funds for drawdown, but does not draw all the funds before death. These provisions are treated as having come into force on 6 April 2011 in relation to general drawdown funds (being the date from which the requirement to purchase an annuity at age 75 was removed, and the option to enter drawdown instead was introduced) and on 6 April 2015 in relation to flexi-access drawdown funds.

### Other changes

A handful of changes to the pension flexibility rules were also included in the Act, such as:

- serious ill-health lump sums (SILS) could previously be paid out of funds only where no benefits had been taken. The Act now permits them to be paid from unused drawdown funds. SILS are now also taxable at an individual's marginal tax rate, rather than at 45%, when paid in respect of individuals aged 75 or over
- dependants' drawdown or flexi-access drawdown funds can now continue to be used after the dependant's 23rd birthday without them being treated as unauthorised payments
- money purchase pensions in payment can now be paid as a trivial commutation lump sum, where total pension savings are under £30,000

### What should you be doing?

Employers and trustees should familiarise themselves with the changes. HMRC has recently published updates to its Pensions Tax Manual (PTM) to reflect changes introduced by the Act.

Schemes should already be working with the reduced LTA, and taking action in relation to members wishing to take advantage of the latest transitional protections.

HMRC is currently working on a 'look up' service for administrators to check their members' protection statuses, as well as a function for members who have IP16 (or the earlier IP14) to amend their protection details online. HMRC had hoped to launch these in October, but confirmed at the end of September that delivery will now be later this year.