

Notes to help you complete form APSS200 – Protection of existing pension rights

When to complete form APSS200

You should use this form to apply for primary or enhanced protection of your lifetime allowance under Paragraph 7 Schedule 36 Finance Act (FA) 2004 (primary protection) or Paragraph 12 Schedule 36 Finance Act (FA) 2004 (enhanced protection).

General

These notes provide guidance on how to notify us of an enhancement to your lifetime allowance.

Transitional protection allows the pension rights you built up before 6 April 2006 to come into payment from 6 April 2006 where the amount of the payment would otherwise trigger an additional tax charge under the rules of the new pension system.

Transitional protection covers pension rights held in tax approved occupational pension schemes, personal pension schemes, retirement annuity contracts and deferred annuity contracts.

If you have pension rights accrued before 6 April 2006 you will be able to notify protection from the lifetime allowance charge when those rights come into payment after 6 April 2006. You will also be able to protect your lump sum rights where those rights exceed £375,000 on 5 April 2006.

Transitional protection is available in two forms:

- enhanced protection and
- primary protection.

These notes are intended to help you complete the boxes on the notification form. Further guidance is in the Registered Pension Schemes Manual (RPSM) on our website at www.hmrc.gov.uk Under *businesses & corporations* follow the link for *Pension Schemes* then *View the Registered Pension Schemes Manual*. Chapter 3 of RPSM is the most relevant and you will see references to that chapter in these notes. RPSM also has a glossary that you may find helpful.

How to notify us

You must notify us of your intention to rely on transitional protection by completing form APSS200 and sending it to:
HM Revenue & Customs
Pension Schemes Services
FitzRoy House
Castle Meadow Road
Nottingham
NG2 1BD

We must receive this form on or before 5 April 2009. You must retain all documents relating to the information given in the notification for a period of six years from the date you send your notification to us.

Completing the form

You must complete all of the boxes on the form. If there is a question that does not apply to you, please enter 'N/A'. If you do not send a fully completed form, we will return it to you as incomplete. Use ticks (✓) where indicated.

About you

Complete your details

- 1 **Title** by which you are known for example, Mr, Mrs, Miss or Ms.
- 2 **Surname or family name**
- 3 **First name and any middle name(s)**
- 4 **National Insurance number (NINO)**

If you do not have a NINO or are not entitled to one you will need to produce a letter from Jobcentre Plus or confirm this in writing yourself.

If you are unsure if you qualify for a NINO, you should phone Jobcentre Plus Helpline on **0845 6000 643** to book a Right To Work interview. After the interview Jobcentre Plus will either provide you with a NINO or a letter advising you that you are not entitled to a NINO.

If you have lost or cannot remember your NINO, you might be able to find it on official paperwork, for example your P60 or your payslip. If you still cannot find your NINO you can:

- ask HMRC to confirm it by completing and returning form CA5403 *Your National Insurance number*
- phone the National Insurance Registrations Helpline on **0845 915 7006** (lines open 8.30am to 5pm Monday to Friday).

Once you have written confirmation that you are not entitled to a NINO, you should phone Pension Schemes Services Helpline on **0845 600 2622** to obtain an alternative identifier which can be used when completing the application form.

When contacting Pension Schemes Services to obtain an alternative identifier you will need to supply the following information:

- full name
- date of birth
- current address
- details of application form being completed, for example the APSS200.

Pension Schemes Services will then provide you with an alternative identifier which can be entered in the NINO box on the application form.

5 **Unique Taxpayer Reference (UTR)**

This is the Self Assessment (SA) reference number (also called the Unique Taxpayer Reference (UTR) allocated to the individual for use for Self Assessment).

6 **Date of birth**

7 **Address**

8 **Is this an amendment to an existing notification?**

Tick the 'Yes' box if you are amending information that you submitted in an earlier notification. You must fill in all of the form that applies to your type of notification, not just the part(s) that you wish to amend.

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An amendment to an earlier notification includes:

- providing additional information that should have been included
- removing information that ought not to have been included
- correcting an error.

If an earlier notification became incorrect as a consequence of a subsequent action or decision, for example, you lose or voluntarily give up enhanced protection, you should read the guidance on correcting earlier notifications. See *RPSM03203020*.

If you tick the 'Yes' box, you must enter the certificate number that was shown on the certificate issued to you in response to the earlier notification. If this is an amendment to an earlier notification, the original certificate will be cancelled.

Tick the 'No' box if you have not sent HMRC an earlier notification.

About the type of protection you are notifying

Tick the appropriate box(es) to indicate the type of transitional protection you intend to rely on.

9.1 Enhanced protection

If you have pension rights that have not come into payment (uncrystallised) at 5 April 2006, you can claim protection from the lifetime allowance charge when those rights come into payment (crystallise) after 5 April 2006.

Whilst you retain enhanced protection there will be no liability to the lifetime allowance charge.

If you have been an 'active' member of a registered pension scheme at any time after 5 April 2006, you are not eligible to notify enhanced protection (see note 10).

If your uncrystallised pension rights on 5 April 2006 exceeded the maximum value permitted, you must surrender any excess pension rights that have not yet come into payment (see note 12) before you notify enhanced protection.

See *RPSM03104000* for further guidance on enhanced protection.

9.2 Primary protection

If you have pension rights valued at more than £1.5 million on 5 April 2006 you can notify protection from the lifetime allowance charge when those rights come into payment (crystallise) after 5 April 2006.

Under primary protection you will have a personal lifetime allowance which is greater than the standard lifetime allowance. This is achieved by giving you an enhancement factor that will be applied to the current standard lifetime allowance at the date your benefits are taken. The lifetime allowance charge will apply only to benefits paid after your personal lifetime allowance has been used up.

See *RPSM03102000* for further guidance on primary protection.

Notifying both forms of transitional protection

If the value of your pension rights at 5 April 2006 exceeds £1.5 million you may notify both forms of transitional protection. You can do this on one form or on separate occasions.

However you must make all notifications to us by 5 April 2009. If you notify both forms of protection, enhanced protection will take precedence and your protection will operate on that basis until you lose or voluntarily give up enhanced protection. When your enhanced protection ceases your transitional protection will revert to primary protection.

Enhanced protection

Answer all of the relevant questions in this part if you are notifying enhanced protection.

10 Have you been an 'active' member of a pension scheme at any time after 5 April 2006?

If you have been an 'active' member of a registered pension scheme at any time after 5 April 2006 you are not eligible to notify enhanced protection. Do not complete form APSS200 unless you are notifying us of an intention to rely on primary protection.

An 'active' member is someone who has had an event that would cause loss of enhanced protection (see *RPSM03201031* and *RPSM03203010*). Being a current member of a pension scheme does not necessarily make you an 'active' member.

Whether you are an 'active' member depends on 'relevant benefit accrual'. This has different meanings depending on the type of scheme under which your benefits are being provided.

- For a 'Money Purchase Scheme' (see *RPSM03104510*), relevant benefit accrual is basically about input to the scheme. If you pay contributions or contributions are paid on your behalf into the scheme after 5 April 2006, you are an 'active member' and are not entitled to enhanced protection. The only exceptions are the payments into the scheme of contracted-out contributions or some contributions paid to provide life cover under a policy of insurance. (See *RPSM03104080*)
- With a defined benefits or cash balance arrangement (see *RPSM03104520*), relevant benefit accrual is essentially about output from the scheme. Contributions to these types of scheme may continue without you becoming an 'active' member. There is a test when a payment is made from the scheme such as benefits coming into payment (crystallised) or a 'permitted transfer' (see *RPSM03104090*). If the value of your pension rights paid from the scheme is greater than the value of your rights on 5 April 2006, enhanced protection will be lost.

There is also a flowchart on relevant benefit accrual, at *RPSM03104570*.

Other ways enhanced protection is lost:

- If you transfer your pension rights out of the scheme where your benefits were held on 5 April 2006 and it is not a 'permitted transfer' you will lose enhanced protection. *RPSM03104090* describes the conditions that have to be met for a transfer to be a 'permitted transfer'.
- If the scheme under which your benefits are being provided is a money purchase arrangement and any time after 5 April 2006 you make an 'impermissible transfer' into your scheme, enhanced protection will be lost. See *RPSM03104097* for examples of 'impermissible transfers'.
- You will lose enhanced protection if you join an arrangement where you were previously not a member and the arrangement – provides retirement and/or death benefits, or – is set up otherwise than solely to receive a permitted transfer of benefits.

See *RPSM03104095* for guidance on what is a new arrangement.

For full guidance see the Registered Pension Schemes Manual at www.hmrc.gov.uk

Under *businesses & corporations* follow the link for *Pension Schemes* then *View the Registered Pension Schemes Manual*.

11 Did you have pension rights that had not yet come into payment in a pension scheme funded or partly funded by an employer on 5 April 2006?

Do not complete this if you have ticked 'Yes' at question 10, go straight to the section about primary protection.

A pension right that has not yet come into payment (uncrystallised) is where on 5 April 2006 you had not become entitled to the present payment of benefits in respect of those rights. Where income withdrawal/drawdown under a personal pension scheme, or an occupational pension scheme, or deferred annuity contract has begun the rights have come into payment (crystallised).

See *RPSM03101010* for further guidance.

Pension schemes funded or partly funded by an employer are:

- (a) retirement benefit schemes approved under Chapter 1 Part XIV ICTA 1988
- (b) schemes formerly approved under section 208 ICTA 1970
- (c) relevant statutory schemes (as defined in section 611 ICTA 1988)
- (d) deferred annuity contracts entered into in relation to (a) to (c) inclusive.

For the purposes of this question pension rights held in a group personal pension scheme are not to be included as schemes funded or partly funded by an employer.

12 Were the pension rights for the employment (or for each employment, if more than one employment) within the maximum value permitted?

Tick the appropriate box to indicate whether the value of your pension rights that had not come into payment in pension schemes funded wholly or partly by an employer, was within the maximum permitted.

Where you have uncrystallised pension rights in a scheme that is funded or partly funded by an employer (see note 11), the value of those pension rights must be tested against the maximum permitted pension (MPP).

Before 6 April 2006 there were limits on the benefits that could be provided by an approved occupational pension scheme. This limit is defined in paragraph 9 Schedule 36 FA 2004 as the MPP. Where the value of your pension rights that have not come into payment, as calculated under paragraph 8 Schedule 36 FA 2004, is more than the value of the MPP, you cannot take rights above the MPP into enhanced protection. Rights above the MPP are known as excess rights.

See *RPSM03101510* for further guidance on the maximum permitted pension.

13 Have you surrendered your 'excess rights'?

If you ticked 'No' at question 12, tick the appropriate box to indicate whether these 'excess rights' have been surrendered.

Do not complete this if you ticked 'Yes' at question 12 - go straight to question 14.

Under paragraph 12(5) schedule 36 FA 2004 you cannot give notice of an intention to rely on enhanced protection where your uncrystallised pension rights on 5 April 2006 are excessive. Excess rights will arise whenever the value of your pension rights for an employment are greater than the value of the MPP for that employment. Such excess rights must be surrendered in accordance with the Regulations before you can notify enhanced protection.

You cannot apply for enhanced protection until you surrender your excess rights in accordance with the Regulations. Do not complete this form unless you are notifying us of your intention to rely on primary protection.

See *RPSM03104030* for further guidance on surrendering your excess rights.

14 Did you have lump sum rights exceeding £375,000 on 5 April 2006?

Do not complete this if you ticked 'No' at question 13, go straight to the section about primary protection.

When you notify your intention to rely on enhanced protection for your pension rights, transitional protection will also be available where you have lump sum rights of more than £375,000 on 5 April 2006.

The value of your lump sum rights on 5 April 2006 is the total of your crystallised lump sum rights (from benefits in payment) and uncrystallised lump sum rights (from benefits not yet in payment).

The value of your crystallised lump sum rights is **not** the value of lump sums actually paid, but a notional figure of 25% of the value of your pension rights in payment (see *RPSM03105050*).

Example

If you had a crystallised fund value of £2 million pounds on 5 April 2006 (gross annual pension of £80,000 x 25) the value of your crystallised lump sum rights would be £500,000 (£2 million x 25%). If you also had uncrystallised pension rights valued at £100,000 from which a lump sum of £20,000 could be taken the value of your lump sum rights would be £520,000. Questions at boxes 14, 15 and 16 would be answered 'Yes', '£20,000' and '£100,000' respectively.

15 Please tell us the value of your lump sum rights on 5 April 2006 that had not come into payment

Enter the value in whole pounds.

If you ticked 'Yes' at question 14, put the value of those rights in the box.

Do not complete this if you have ticked 'No' at question 14, go to either the section about primary protection or the Declaration as appropriate.

The amount you can protect is only the uncrystallised portion of the total rights, so this could be less than £375,000.

Lump sum rights are considered to have come into payment on 5 April 2006 if they were due and payable on or before that date, even though they are actually paid after 5 April 2006. Such rights are not uncrystallised lump sum rights, so do not include them in the amount in box 15.

How your lump sum rights from relevant pension arrangements are valued on 5 April 2006 depends on whether they are held in retirement annuity contracts, personal pension schemes or schemes funded or partly funded by an employer or deferred annuity contracts.

Where you have uncrystallised lump sum rights in a scheme that is funded or partly funded by an employer, those pension rights must be tested against the limits on the benefits that such schemes could provide before 6 April 2006. This limit is defined in paragraph 26 Schedule 36 FA 2004 as the maximum permitted lump sum.

Where the value of your uncrystallised lump sum rights exceeds the value of the maximum permitted lump sum, it is the value of the maximum permitted lump sum that may be protected. See *RPSM03105080* for a full explanation.

16 Please tell us the value of your pension rights (including lump sum rights) on 5 April 2006 that had not come into payment

Enter the value in whole pounds.

If you ticked 'Yes' at question 14, put the value of these rights in this box. This is the total of your lump sum and your pension rights, not just lump sum rights as in box 15.

See note 11 about rights that have not come into payment.

The value of your pension rights that had not come into payment (uncrystallised) is the aggregate value of your pension rights on 5 April 2006 under each relevant pension arrangement.

Where you have uncrystallised pension rights in a scheme that is funded or partly funded by an employer (see note 9), those pension rights must be tested against the MPP.

If you notify us of your intention to rely on enhanced protection you will be able to take your lump sum rights as a percentage of the total value of the lump sum, plus residual pension that comes into payment on or after 6 April 2006. The percentage will be derived from the value of your uncrystallised lump sum rights on 5 April 2006 and the value of your uncrystallised pension rights. This percentage will be shown on the HMRC certificate.

See *RPSM03101050* for further guidance.

Primary protection

Answer all questions in this part if you are notifying us of an intention to rely on primary protection.

17 Please tell us the value of your pension rights on 5 April 2006 that had not come into payment

Enter the value in whole pounds.

17.1 Schemes funded wholly or partly by an employer

See the notes at 11 for more information on how to value your pension rights that have not come into payment on 5 April 2006 in schemes that are wholly funded or partly funded by an employer.

For the purposes of this question include the value for rights held under group personal pensions in the Personal Pension and Retirement Annuity Contracts category below.

Indicate whether the pension rights for the employment were within the maximum value permitted.

See note 12 for how to calculate whether your pension rights that have not come into payment are within the maximum permitted pension (MPP).

If the value of your rights are more than the MPP the MPP becomes the value of your rights which may be protected and this should be the amount you enter here.

17.2 Personal Pension schemes and Retirement Annuity contracts

For the purposes of this question include the value for rights held under group personal pensions in this category.

See *RPSM03101000* onwards for further guidance on the valuation of pension rights.

18 Please tell us the value of your pension rights in payment on 5 April 2006

The value of your pension rights that are in payment (crystallised) on 5 April 2006 must be taken into account in arriving at the figure for transitional protection purposes. Crystallised pension rights are relevant existing pensions being paid to you. See *RPSM03101020* for further guidance.

19 Did you have lump sum rights exceeding £375,000 on 5 April 2006?

When you notify us of your intention to rely on primary protection for your pension rights, transitional protection will also be available where you have lump sum rights of more than £375,000.

The value of your lump sum rights on 5 April 2006 is the total of your crystallised lump sum rights (from benefits in payment) and uncrystallised lump sum rights (from benefits not yet in payment).

The value of your crystallised lump sum rights is **not** the value of lump sums actually paid, but a notional figure of 25% of the value of your pension rights in payment (see *RPSM03105050*).

Example

If you had a pension in payment on 5 April 2006 with an annual rate of £80,000 its crystallised value would be £2 million (£80,000 x 25). The value of your crystallised lump sum rights would be £500,000 (£2 million x 25%). If you also had uncrystallised pension rights valued at £100,000 from which you could take £20,000 as tax-free cash the total value of your lump sum rights is £520,000. In this example your answers to questions 18, 19 and 20 would be '£2 million', 'Yes' and '£20,000' respectively.

The protection of lump sum rights under primary protection is achieved by valuing your uncrystallised lump sum rights at 5 April 2006 and using this figure as the base amount for your protection. You will then be able to take your lump sum from benefits coming into payment as you choose, providing you have not used up 100% of your personal lifetime allowance. The value of the lump sum rights on 5 April 2006 will be increased in the same way as the standard lifetime allowance.

20 Please tell us the value of your lump sum rights on 5 April 2006 that had not come into payment

Enter the value in whole pounds.

If you ticked 'Yes' at question 19, put the value of these rights in the box.

Do not complete this if you have ticked 'No' at question 19 - go to question 21.

See the notes at 15 for how to value your lump sum rights that have not come into payment on 5 April 2006. This is the value of the uncrystallised lump sum rights only, so could be less than £375,000.

21 Are the pension rights that had not come into payment on 5 April 2006 money purchase rights, valued by underpinning assets where you were able to influence the investments?

Tick the relevant box to indicate whether any of your pension rights that had not come into payment on 5 April 2006 were held in money purchase arrangements, where you were able (whether directly or indirectly) to influence the investments that scheme could make.

22 Please tell us the value of the investments at 5 April 2006

Enter the value in whole pounds.

If you answered 'Yes' at question 21, you should provide the value of the investments in the following types of assets.

Do not complete this if you have ticked 'No' at question 21, go straight to the Declaration.

If you have ticked 'Yes' at question 21 give the nature of those assets by writing the value of the assets in the relevant box.

The total value of these assets will not necessarily total the same as the figures you have given at question 17.

- Property or interest in land - land includes houses and buildings of any kind.
- Chose in action - a 'chose in action' is something which is not corporeal, tangible, movable or visible and of which a person has not the present enjoyment but merely a right to recover it (if withheld) by action. Examples are copyrights and patent rights.
- Cash - includes cash on deposit or in a current account.
- Loans - made by the scheme and held as assets.
- Works of art - includes paintings, sculptures, ceramics, ancient artefacts and antique furniture.
- Other - any other relevant assets not falling within the categories above.

Do not include with this form copies of any valuations you have obtained. We may ask to see them at a later date.

Declaration

You must sign and date the declaration, otherwise we will return your notification to you as incomplete.

If someone else, acting on your behalf, filled in this form you must still sign the form yourself to confirm to us that, to the best of your knowledge, it is correct and complete.

The person notifying transitional protection must complete this form, unless there are exceptional circumstances.

These are:

- If someone dies, their personal representative may complete the notification.
- For persons who are mentally incapable of dealing with the notification, the following authorised persons may complete this form
 - in England and Wales or Northern Ireland, the person's attorney or receiver, or the person managing or administering their property and affairs
 - in Scotland, the person's guardian within the meaning of the Adults with Incapacity (Scotland) Act 2000
 - in a country or territory outside the UK, a person legally authorised to act on their behalf in that country or territory.

For a person who is not physically capable of dealing with the notification, a person having a power of attorney or non-UK equivalent in relation to the affairs of that person may complete the form on their behalf.

If you are signing for someone else, enter the capacity in which you are signing and also enter your name and address in the relevant boxes.

Send the form by post to the address on page 1 of these notes.

What happens next?

Once we have processed this information we will send you a certificate with a unique reference number giving details of your enhanced lifetime allowance.

If this notification is an amendment to an earlier notification the original certificate will be cancelled.

We may make enquiries about the information you have provided in your notification and ask you to provide the records from which it was taken. When your pension rights come into payment on or after 6 April 2006, you must provide your certificate details to the Scheme Administrator when you need transitional protection to eliminate, or reduce a lifetime allowance charge or receive a transitionally protected lump sum.

How we use your information

HM Revenue & Customs is a Data Controller under the Data Protection Act 1998. We hold information for the purposes specified in our notification to the Information Commissioner, including the assessment and collection of tax and duties, the payment of benefits and the prevention and detection of crime, and may use this information for any of them.

We may get information about you from others, or we may give information to them. If we do, it will only be as the law permits to:

- check the accuracy of information
- prevent or detect crime
- protect public funds.

We may check information we receive about you with what is already in our records. This can include information provided by you, as well as by others, such as by other government departments or agencies and overseas tax and customs authorities. We will not give information to anyone outside HM Revenue & Customs unless the law permits us to do so. For more information go to www.hmrc.gov.uk and look for *Data Protection Act* within the *Search* facility.