



# Pensions Bulletin

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## Protecting Existing Pension Rights

**This Pensions Bulletin covers protection of pre A-Day pension rights: when it may be needed and how to apply for protection.**

Protection is available for existing pension scheme members who may be adversely affected by the pensions regulation changes introduced on 6 April 2006. This will include members who, on 5 April 2006, had already built up benefits, or the potential for benefits, in excess of the lifetime allowance or who were entitled to a lump sum in excess of either 25% of their fund or £375,000.

Protection can either take the form of 'primary' or 'enhanced' protection. Retaining entitlement to a higher lump sum or a lower pension age is also possible without registering for primary or enhanced protection. It is feasible for members with funds in excess of £1.5 million on 5th April 2006 to register for both primary and enhanced protection, with enhanced protection taking precedence when benefits are taken.

It is the responsibility of the member, in conjunction with their adviser, to identify whether protection is appropriate. In most cases members must notify HM Revenue & Customs ("HMRC") if they intend to rely on protection and the notification must be received by 5 April 2009.

### How does protection work?

When a member begins to draw benefits (or draws additional benefits), the value of the pension funds being put into payment are tested against the lifetime allowance. Protecting existing benefits is essentially protecting them against the lifetime allowance charge, at the

point of drawing benefits. However, the method differs depending on the type of protection.

### Primary protection

Primary protection is available to any member who had total pension funds, across all schemes, which exceeded £1.5 million on 5 April 2006. It will give the member a higher personal lifetime allowance. HM Revenue & Customs will calculate a factor as follows:

$$\frac{\text{(Value of member's funds at 5/4/2006 minus £1,500,000)}}{£1,500,000}$$

The factor is expressed to two decimal places. The member's personal lifetime allowance will be the standard lifetime allowance at the time of taking benefits plus the additional factor applied to the standard lifetime allowance.

For example, a member with a fund of £2 million at 5 April 2006 will have a factor of 0.33. When applied to the lifetime allowance for 2010 of £1.8 million, their personal lifetime allowance will be:

$$£1,800,000 + (£1,800,000 \times 0.33) = £2,394,000$$
 (in other words, 133% of the standard lifetime allowance).

### Enhanced protection

Opting for enhanced protection will protect the whole fund (including any growth) from the lifetime allowance charge, as long as no further contributions are paid to any scheme from 6 April 2006. If further contributions



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are then paid, or relevant benefits accrue under a defined benefits scheme, the protection is lost unless the member has also registered for primary protection, in which case it reverts to primary protection. Any member can register for enhanced protection, whatever the value of their pension fund on 5 April 2006. If a member has enhanced protection, no lifetime allowance charge is payable.

### Other types of protection

Some members may have a tax-free lump sum entitlement that exceeded £375,000 on 5 April 2006, and members of occupational schemes may have a tax-free lump sum entitlement that exceeds 25% of their fund value.

Any member with a tax-free lump sum entitlement over £375,000 will be able to protect this when registering for primary or enhanced protection.

Any member with a tax-free lump sum entitlement of less than £375,000 but over 25% of their fund value will be able to claim the higher amount without registering this with HMRC.

Some members may have been entitled to take benefits earlier than normal before 6 April 2006 and in these cases their pension age will be automatically protected as long as they take all benefits at one point (phased drawdown will mean that protection is lost).

Protected lump sums and protected pension ages are both lost on transfer to another scheme if the transfer is not a 'block transfer'. A block transfer is where two or more members of the same scheme transfer to the same new scheme at the same time. Advisers should take care when looking at transferring benefits for these members.

### How to register for protection

The protection registration deadline is 5 April 2009, but members should start considering their registration much sooner as they will need to obtain values for their entire pension schemes at 5 April 2006. This will involve asking pension providers to value any funds being used to support drawdown or pension – known as 'crystallised funds' – and any funds not yet being used to pay benefits – 'uncrystallised funds'. Crystallised funds are valued in accordance with a method prescribed by HMRC and so the provider will need to be made aware that the valuation is for protection purposes to ensure that the correct valuation method is used.

Having obtained values, the member can register for primary and/or enhanced protection by completing the Protection of Existing Rights form (APSS 200), available on the HMRC website: [www.hmrc.gov.uk/pensionschemes/apss200.pdf](http://www.hmrc.gov.uk/pensionschemes/apss200.pdf) On receipt of the form,

HMRC will issue a certificate to the member confirming the type of protection available and, if applicable, the protected lump sum. This certificate will need to be sent to any pension providers when the member decides to take benefits.

### The lifetime allowance charge

When taking benefits, a member may suffer a lifetime allowance charge if no protection is available and their fund is in excess of the lifetime allowance, or if their funds exceed their personal lifetime allowance under primary protection.

In these cases, there will be a lifetime allowance charge due on the excess funds. The amount of the charge will depend on how the benefits are taken – the excess funds can be taken as a lump sum, in which case the charge is 55% of the excess. If the excess funds are taken as pension income, the charge is 25% but the income will be subject to income tax at the member's usual rate. The Scheme Administrator will usually calculate and deduct the lifetime allowance charge before paying benefits. The member is required to declare the payment through their Self-Assessment return, however, on the Additional Information form SA101, which can be found at: [www.hmrc.gov.uk/forms/sa101.pdf](http://www.hmrc.gov.uk/forms/sa101.pdf)

**This Pensions Bulletin is based on Alliance Trust Savings' interpretation of current legislation and HMRC regulations and should not be relied upon for detailed advice or as a statement of current law.**