Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 7

COMPLIANCE

Penalties

257 Registered pension scheme return

(1) If the scheme administrator of a registered pension scheme fails to comply with a notice under section 250 (registered pension scheme return), the scheme administrator is liable to a penalty of £100.

(2) If the failure continues after a penalty is imposed under subsection (1), the scheme administrator is liable to a further penalty not exceeding £60 for each day on which the failure continues after the day on which that penalty was imposed (but excluding any day for which a penalty under this subsection has already been imposed).

(3) No penalty may be imposed under subsection (1) or (2) in respect of a failure after it has been remedied.

(4) If the scheme administrator of a registered pension scheme fraudulently or negligently—

(a) makes an incorrect return required by a notice under section 250, or

(b) delivers any incorrect accounts, statements or other documents with such a return,

the scheme administrator is liable to a penalty not exceeding £3,000.

258 Information required by regulations

(1) In section 98 of TMA 1970 (penalties for failure to provide information and providing false information), in the second column of the Table, insert at the appropriate place—

"regulations under section 251(1)(a) or (4) of the Finance Act 2004;".

(2) A person who fails to comply with regulations under section 251(1)(b) (preservation of documents) is liable to a penalty not exceeding £3,000.

259 Documents and particulars required by notice

(1) A person who fails to comply with a notice under section 252 (notice requiring documents or particulars) is liable to a penalty not exceeding £300.

(2) If the failure continues after a penalty is imposed under subsection (1), the person is liable to a further penalty not exceeding £60 for each day on which the failure continues after the day on which that penalty was imposed (but excluding any day for which a penalty under this subsection has already been imposed).

(3) No penalty may be imposed under subsection (1) or (2) in respect of a failure after it has been remedied.

(4) If a person fraudulently or negligently—

(a) produces or makes available for inspection any incorrect documents, or

(b) provides any incorrect particulars,

in response to a notice under section 252, the person is liable to a penalty not exceeding £3,000.

260 Accounting return

(1) If the scheme administrator of a registered pension scheme fails to make a return for a quarter in accordance with section 254 (return of tax charged), the scheme administrator is liable—

(a) to a penalty or penalties of the relevant quarterly amount for each quarter (or part of a quarter) for which the failure continues, excluding any quarter after the fourth or for which a penalty under this paragraph has already been imposed, and

(b) if the failure continues beyond the fourth quarter (whether or not any penalty under paragraph (a) is imposed), to a penalty not exceeding the amount of income tax to which the scheme administrator is liable (otherwise than under section 239: scheme sanction charge) for the quarter for which the return is not made.

(2) In subsection (1)—

"quarter" means a period of three months ending with 31st March, 30th June, 30th September or 31st December, and

"the relevant quarterly amount"—

(a) if the number of persons in respect of whom particulars should be included in the return by virtue of section 254(4)(b) is ten or less, is £100, and

(b) if that number is greater than ten, is £100 for each ten such persons and an additional £100 where that number is not a multiple of ten.

(3) The Treasury may from time to time by order amend the amounts specified in the definition of "the relevant quarterly amount" in subsection (2).

(4) No penalty under subsection (1)(b) may be imposed unless—
(a) the amount of income tax to which the scheme administrator is liable (otherwise than under section 239) for the quarter concerned has been determined by the Inland Revenue, and
(b) the scheme administrator has been notified of that amount.

(5) In section 100(6)(a) of TMA 1970 (excessive penalty), after "1998" insert "or section 260(1)(b) of the Finance Act 2004".

(6) If the scheme administrator of a registered pension scheme fraudulently or negligently makes an incorrect return under section 254, the scheme administrator is liable to a penalty not exceeding the difference between—
(a) the amount of the tax shown in the return, and
(b) the amount of the tax which should have been shown in the return,

or, if no tax is shown in the return, the amount of the tax which should have been shown in the return.

(7) Where the registration of a registered pension scheme has been withdrawn, this section has effect as if references to the scheme administrator were to the person who was or the persons who were the scheme administrator immediately before the registration was withdrawn.

261 Enhanced lifetime allowance regulations: documents and information

(1) This section applies where an individual fraudulently or negligently—
(a) produces or makes available an incorrect document, or produces an incorrect certificate, in connection with any matter registered in accordance with enhanced lifetime allowance regulations, or
(b) provides false information in connection with any such matter,

and the condition in subsection (2) is met.

(2) The condition is that—
(a) the amount of the individual's lifetime allowance at the time which is relevant for the purposes of this paragraph, or
(b) the amount of the pension commencement lump sums to which the individual may be entitled at the time which is relevant for the purposes of this paragraph,

would be greater than it actually is were the document or certificate correct or the information true.

(3) The individual is liable to a penalty not exceeding 25% of the relevant excess.

(4) In a case within paragraph (a) of subsection (2), the relevant excess is the difference between what would be the amount of the individual's lifetime allowance at the time which is relevant for the purposes of that paragraph (were the document or certificate correct or the information true) and whichever is the higher of—
(a) the actual amount of the individual's lifetime allowance at that time, and
(b) the standard lifetime allowance at that time.

(5) The time which is relevant for the purposes of paragraph (a) of subsection (2)—

(a) where a benefit crystallisation event has occurred in relation to the individual since the document was produced or made available, the certificate produced or the information provided (but before a penalty under this section is imposed), is the time when the benefit crystallisation event occurred, and

(b) otherwise, is the time when the document was produced or made available, the certificate produced or the information provided.

(6) In a case within paragraph (b) of subsection (2), the relevant excess is the difference between—

(a) what would be the amount of the pension commencement lump sums to which the individual may be entitled at the time which is relevant for the purposes of that paragraph (were the document or certificate correct or the information true), and

(b) the actual amount at that time of the pension commencement lump sums to which the individual may be entitled.

(7) The time which is relevant for the purposes of paragraph (b) of subsection (2) is the time when the document was produced or made available, the certificate produced or the information provided.

262 Enhanced lifetime allowance regulations: failures to comply

An individual who fails—

(a) to produce or make available any document required to be produced by enhanced lifetime allowance regulations,

(b) to produce any certificate required to be produced by enhanced lifetime allowance regulations, or

(c) to provide any information required to be provided by enhanced lifetime allowance regulations,

is liable to a penalty not exceeding £3,000.

263 Lifetime allowance enhanced protection: benefit accrual

(1) This section applies where—

(a) paragraph 12 of Schedule 36 (lifetime allowance charge: enhanced protection) applies in relation to an individual, and

(b) relevant benefit accrual occurs in relation to the individual (as to which see paragraph 13 of that Schedule).

(2) If the individual fails to notify the Inland Revenue of the relevant benefit accrual within the period of 90 days beginning with the day on which it occurs, the individual is liable to a penalty not exceeding £3,000.

264 False statements etc

(1) A person who fraudulently or negligently makes a false statement or representation is liable to a penalty not exceeding £3,000 if, in consequence of the statement or representation—

(a) that person or any other person obtains relief from, or repayment of, tax chargeable under this Part, or

(b) a registered pension scheme makes a payment which is an unauthorised payment.

(2) A person who assists in or induces the preparation of any document which the person knows—

(a) is incorrect, and

(b) will, or is likely to, cause a registered pension scheme to make an unauthorised payment,

is liable to a penalty not exceeding £3,000.

265 Winding-up to facilitate payment of lump sums

(1) This section applies where the winding-up of a registered pension scheme has begun and the Inland Revenue considers the pension scheme is being wound up wholly or mainly for the purpose specified in subsection (2).

(2) That purpose is facilitating the payment of winding-up lump sums or winding-up lump sum death benefits (or both) under the pension scheme.

(3) The scheme administrator is liable to a penalty not exceeding the relevant amount.

(4) The relevant amount is £3,000 in respect of—

(a) each member to whom a winding-up lump sum is paid under the pension scheme, and

(b) each member in respect of whom a winding-up lump sum death benefit is paid under the pension scheme.

266 Transfers to insured schemes

(1) This section applies where sums held for the purposes of, or representing accrued rights under, a registered pension scheme ("the transferor scheme") are transferred so as to become held for the purposes of, or to represent rights under, a registered pension scheme that is an insured scheme ("the transferee scheme").

(2) The scheme administrator of the transferor scheme is liable to a penalty not exceeding £3,000 unless the sums are transferred either to the scheme administrator of the transferee scheme or to a relevant insurance company.

(3) In this section—

"insured scheme" means a pension scheme all the income and other assets of which are invested in policies of insurance, and

"relevant insurance company" means an insurance company that issued any of the policies of insurance.