



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 7

#### COMPLIANCE

##### *Scheme administrator*

#### **270 Meaning of “scheme administrator”**

- (1) References in this Part to the scheme administrator, in relation to a pension scheme, are to the person who is, or persons who are, appointed in accordance with the rules of the pension scheme to be responsible for the discharge of the functions conferred or imposed on the scheme administrator of the pension scheme by and under this Part.
- (2) But a person cannot be the person who is, or one of the persons who are, the scheme administrator of a pension scheme unless the person—
  - (a) is resident in the United Kingdom or another state which is a member State or a non-member EEA State,<sup>F1</sup> ...
  - (b) has made the required declaration to the Inland Revenue<sup>F2</sup>, and
  - (c) has made to an officer of Revenue and Customs any other declarations which are reasonably required by Her Majesty's Revenue and Customs.]
- (3) “The required declaration” is a declaration that the person—
  - (a) understands that the person will be responsible for discharging the functions conferred or imposed on the scheme administrator of the pension scheme by and under this Part, and

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- (b) intends to discharge those functions at all times, whether resident in the United Kingdom or another state which is a member State or a non-member EEA State.
- (4) “Non-member EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as adjusted by the Protocol signed at Brussels on 17th March 1993) but which is not a member State.

#### Textual Amendments

- F1** Word in s. 270(2) omitted (with effect in accordance with Sch. 7 para. 9(2) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 9\(1\)\(a\)](#)
- F2** S. 270(2)(c) and preceding word inserted (with effect in accordance with Sch. 7 para. 9(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 9\(1\)\(b\)](#)

#### Modifications etc. (not altering text)

- C16** S. 270(2) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(4\)](#)
- C17** S. 270(3) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(4\)](#)

#### Commencement Information

- II** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 271 Liability of scheme administrator

- (1) Any liability of a person who is, or of any of the persons who are, the scheme administrator of a registered pension scheme ceases to be a liability of that person on the person ceasing to be, or to be one of the persons who is, the scheme administrator of the pension scheme.

This subsection does not apply to a liability to pay a penalty and is subject to subsection (4).

- (2) Where a person becomes, or becomes one of the persons who is, the scheme administrator of a registered pension scheme, the person assumes any existing liabilities of the scheme administrator of the pension scheme, other than any liability to pay a penalty.
- (3) Subsection (4) applies where, on the person who is or the persons who are the scheme administrator of a registered pension scheme ceasing to be the scheme administrator, there is no scheme administrator of the pension scheme.
- (4) Any liability of the person or persons as scheme administrator remains a liability of that person or those persons as if still the scheme administrator (unless dead or having ceased to exist) until another person becomes, or other persons become, the scheme administrator of the pension scheme.
- (5) But a person who retains, or persons who retain, any liability by virtue of subsection (4) may apply to the Inland Revenue to be released from the liability.

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- (6) On receipt of the application the Inland Revenue must decide whether or not to release the applicant or applicants from the liability and must notify the applicant, or each of the applicants, of the decision.
- (7) If the decision is not to release the applicant or applicants from the liability the applicant or applicants may appeal against the decision.
- <sup>F3</sup>(8) .....
- (9) The appeal must be brought within the period of 30 days beginning with the day on which the applicant was notified of the decision.
- <sup>F4</sup>(10) .....
- (11) [<sup>F5</sup>On an appeal that is notified to the tribunal, the tribunal] must consider whether the applicant or applicants ought to have been released from the liability.
- (12) If [<sup>F6</sup>the tribunal decides] that the applicant or applicants ought not to have been released from the liability, [<sup>F7</sup>the tribunal must] dismiss the appeal.
- (13) If [<sup>F8</sup>the tribunal decides] that the applicant or applicants ought to have been released from the liability, the applicant is, or applicants are, to be treated as having been released from the liability (but subject to any further appeal <sup>F9</sup>...).

#### Textual Amendments

- F3** S. 271(8) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(2)**
- F4** S. 271(10) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(2)**
- F5** Words in s. 271(11) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(3)**
- F6** Words in s. 271(12) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(4)(a)**
- F7** Words in s. 271(12) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(4)(b)**
- F8** Words in s. 271(13) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(5)(a)**
- F9** Words in s. 271(13) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 428(5)(b)**

#### Modifications etc. (not altering text)

- C18** S. 271 modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

#### Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 272 Trustees etc. liable as scheme administrator

- (1) This section applies in relation to a registered pension scheme if—

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- (a) there is no scheme administrator of the pension scheme and no-one who remains subject to the liabilities of the scheme administrator by virtue of section 271(4) (continuation of liability where no scheme administrator),
  - (b) the person who is, or all the persons who are, the scheme administrator of the pension scheme or remain so subject cannot be traced, or
  - (c) the person who is, or all the persons who are, the scheme administrator of the pension scheme or remain so subject are in serious default.
- (2) Any person who assumes liability by reason of this section applying in relation to the pension scheme—
- (a) is liable to pay any tax (and any interest on tax) due from the scheme administrator of the pension scheme by virtue of this Part, and
  - (b) is responsible for the discharge of all other obligations imposed on the scheme administrator of the pension scheme by or under this Part.
- (3) In subsection (2)—
- (a) the references in paragraph (a) to tax, and interest on tax, include any that has become due before this section applied in relation to the pension scheme and remains unpaid, and
  - (b) the reference in paragraph (b) to obligations includes any that have become due before this section applied in relation to the pension scheme and remain unsatisfied, other than any liability to pay a penalty which has become due before this section so applied.
- (4) The following heads specify the persons who assume liability by reason of this section applying in relation to the pension scheme [<sup>F10</sup>or by reason of section 272C(7) applying in relation to a liability]; but if—
- (a) a person assumes, or persons assume, liability by virtue of being specified under one head, and
  - (b) that person, or any of those persons, can be traced and is not in default,
- no-one assumes liability by virtue of being specified under a later head.

*Head 1*

If there are one or more trustees of the pension scheme who are resident in the United Kingdom, that trustee or each of those trustees.

*Head 2*

If there are one or more persons who control the management of the pension scheme, that person or each of those persons.

*Head 3*

If alive or still in existence, the person, or any of the persons, who established the pension scheme and any person by whom that person, or any of those persons, has been directly or indirectly succeeded in relation to the provision of benefits under the pension scheme.

*Head 4*

If the pension scheme is an occupational pension scheme, any sponsoring employer.

*Head 5*

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If there are one or more trustees of the pension scheme who are not resident in the United Kingdom, that trustee or each of those trustees.

- (5) Where a person assumes liability by reason of this section applying in relation to the pension scheme, the Inland Revenue must, as soon as is reasonably practicable, notify the person of that fact; but failure to do so does not affect the person's liability.
- (6) For the purposes of this section a person is in default if the person—
- (a) has failed to pay all or any of the tax (or interest on tax) due from the person by virtue of this Part, or
  - (b) has failed to discharge any other obligation imposed on the person by or under this Part,

and a person in default is in serious default if the Inland Revenue considers the failure to be of a serious nature.

#### Textual Amendments

**F10** Words in s. 272(4) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 18](#)

#### Modifications etc. (not altering text)

- C19** S. 272 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(5\)](#)
- C20** S. 272 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)
- C21** S. 272(4) modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [27\(2\)](#)

#### Commencement Information

**I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F11</sup>272A] Liabilities of independent trustee

- (1) This section applies in relation to a person (“P”) who is an independent trustee of a registered pension scheme.
- (2) For the purposes of this section and section 272B an “independent trustee” is a trustee of a pension scheme—
- (a) who is appointed by, or otherwise pursuant to, an order made—
    - (i) by the Pensions Regulator under section 7 of the Pensions Act 1995 or Article 7 of the Pensions (Northern Ireland) Order 1995 (appointment of trustees by the Pensions Regulator), or
    - (ii) by a court on an application made by the Pensions Regulator, and
  - (b) who is not a trustee of the pension scheme at any time before—
    - (i) the day on which the trustee's appointment as mentioned in paragraph (a) takes effect, or
    - (ii) if the trustee is appointed as mentioned in paragraph (a) on more than one occasion, the day on which the first appointment takes effect.
- (3) In this section “the relevant day” means—

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- (a) the day on which P's appointment as trustee of the pension scheme as mentioned in subsection (2)(a) takes effect, or
  - (b) if P is appointed as trustee of the pension scheme as mentioned in subsection (2)(a) on more than one occasion, the day on which P's first appointment takes effect.
- (4) If P is, or is one of the persons who are, the scheme administrator, P does not assume any liability falling within subsection (7) which P would otherwise assume (including by reason of section 272C(3) or (4)).
- (5) Subsection (4) does not apply if P is, or is one of the persons who are, the scheme administrator at any time before the relevant day.
- (6) In relation to any liability falling within subsection (7), in section 272(4) references to trustees or to persons who control the management of the pension scheme do not include P.
- (7) The liabilities falling within this subsection are—
- (a) liabilities for the following in respect of payments made (or treated as having been made) by the pension scheme on or before the relevant day—
    - (i) the short service refund lump sum charge;
    - <sup>F12</sup>(ii) . . . . .
    - (iii) the special lump sum death benefits charge;
    - (iv) the authorised surplus payments charge;
    - (v) the scheme sanction charge in respect of scheme chargeable payments falling within section 241(1)(a) or (b);
  - (b) liabilities for the lifetime allowance charge in respect of benefit crystallisation events occurring on or before the relevant day;
  - (c) liabilities for the scheme sanction charge in respect of scheme chargeable payments treated under section 185A or 185F as having been made by the pension scheme in tax years earlier than the one in which the relevant day falls;
  - (d) any liability for the scheme sanction charge in respect of the relevant fraction of any scheme chargeable payment treated under section 185A as having been made by the pension scheme in the tax year in which the relevant day falls;
  - (e) where the pension scheme is treated under section 185F as having made a scheme chargeable payment in the tax year in which the relevant day falls and there is a relevant net gain, any liability for the scheme sanction charge in respect of the relevant amount;
  - (f) any liability to pay interest in respect of a liability mentioned in paragraphs (a) to (e) arising at any time.
- (8) For the purposes of subsection (7)(d) “the relevant fraction” is—

$$\frac{A}{B}$$

where—

A is the number of days in the tax year up to (and including) the relevant day, and  
 B is the number of days in the tax year.

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- (9) For the purposes of subsection (7)(e)—
- (a) there is a “relevant net gain” if—
    - (i) the total amount of any gains treated under section 185F as accruing in the tax year on or before the relevant day, exceeds
    - (ii) the total amount of any losses treated under section 185F as so accruing, and
  - (b) “the relevant amount” is—
    - (i) the scheme chargeable payment, or
    - (ii) if that payment is greater than the excess of gains over losses mentioned in paragraph (a), the amount of that excess.
- (10) Subsection (11) applies if—
- (a) apart from that subsection, losses in relation to which section 185G(10) applies would be included in the total amount mentioned in subsection (9)(a)(ii), and
  - (b) the losses exceed the gains—
    - (i) which are included in the total amount mentioned in subsection (9)(a)(i), and
    - (ii) from which the losses can be deducted in accordance with section 185G(10).
- (11) The losses are not to be included in the total amount mentioned in subsection (9)(a)(ii) so far as they exceed the gains.

#### **Textual Amendments**

- F11** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 19](#)
- F12** [S. 272A\(7\)\(a\)\(ii\)](#) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 5 para. 3\(1\)\(b\)](#)

### **272B Liabilities of scheme administrator appointed by independent trustee etc**

- (1) This section applies in relation to a person (“Q”) who is, or is one of the persons who are, the scheme administrator of a registered pension scheme where Q's appointment as such takes effect at a time when the pension scheme has one or more independent trustees.
- (2) Q does not assume any liability falling within section 272A(7) which Q would otherwise assume.
- (3) In relation to any liability falling within section 272A(7), in section 272(4) references to persons who control the management of the pension scheme do not include Q.
- (4) Subsections (2) and (3) do not apply if Q is, or is one of the persons who are, the scheme administrator at any time before the relevant day.
- (5) In this section, and in section 272A as it applies for the purposes of this section, “the relevant day” means the first day on which the pension scheme has an independent trustee (whether or not there are days between that day and the day on which Q's appointment takes effect on which the pension scheme has no independent trustees).

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### Textual Amendments

**F11** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 19](#)

## 272C Former scheme administrator etc to retain liability

- (1) This section applies in relation to a liability which, by reason of section 272A(4), is not assumed by P (in which case “the relevant day” is to be read in accordance with section 272A(3)).
- (2) This section also applies in relation to a liability which, by reason of section 272B(2), is not assumed by Q (in which case “the relevant day” is to be read in accordance with section 272B(5)).
- (3) The liability is to be retained or assumed by the person who is, or the persons who are, the scheme administrator immediately before the relevant day (unless dead or having ceased to exist).
- (4) If there is no scheme administrator immediately before the relevant day, the liability is to be retained or assumed by the person who was, or the persons who were, the scheme administrator when there last was a scheme administrator before the relevant day (unless dead or having ceased to exist).
- (5) Nothing in section 271 prevents a person from having (and continuing to have) the liability by reason of subsection (3) or (4).
- (6) Subsection (7) applies if—
  - (a) no-one has the liability by reason of subsection (3) or (4),
  - (b) no-one who has the liability by reason of subsection (3) or (4) can be traced, or
  - (c) the person who has, or all the persons who have, the liability by reason of subsection (3) or (4) are in serious default (as determined in accordance with section 272(6)).
- (7) The liability is to be assumed by the person or persons determined in accordance with section 272(4).
- (8) Section 272(5) applies in relation to a person who assumes the liability by reason of subsection (7) as it applies in relation to a person who assumes a liability by reason of section 272.
- (9) Nothing in this section prevents any person from being subject to the liability apart from this section (in addition to any person who is subject to the liability by reason of this section), and in particular the liability continues to be a liability of the scheme administrator for the purposes of section 271(2).
- (10) If a person assumes the liability under section 271(2) at a time after P or Q's appointment as, or as one of the persons who are, the scheme administrator has ceased, the person who has, or the persons who have, the liability by reason of subsection (3) or (4) is, or are, released from the liability.
- (11) A person who has, or persons who have, the liability by reason of subsection (3) or (4) may apply to an officer of Revenue and Customs to be released from the liability.



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(12) Section 271(6) to (13) applies in relation to an application under subsection (11) as it applies in relation to an application under section 271(5).]

#### Textual Amendments

**F11** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 para. 19**

### 273 Members liable as scheme administrator

- (1) This section applies in relation to a registered pension scheme if—
- a person has, or persons have, assumed liability by reason of section 272 (trustees etc.) applying in relation to the pension scheme,
  - the person has, or the persons have, become liable to pay tax (or interest on tax) which became due by virtue of section 239 (scheme sanction charge) or section 242 (de-registration charge) before section 272 applied in relation to the pension scheme,
  - that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
  - that person, or each of those persons, has either died or ceased to exist or is a person in whose case the Inland Revenue considers the person's failure to satisfy the liability to be of a serious nature.

[<sup>F13</sup>(1A) This section also applies in relation to a registered pension scheme if—

- a person has, or persons have, by reason of section 272C(7) assumed a liability to pay tax (or interest on tax) by virtue of section 239 (scheme sanction charge) in respect of the whole or a part of a scheme chargeable payment falling within section 241(1)(b) or (c) made (or treated as having been made) by the pension scheme,
  - that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
  - that person, or each of those persons, has either died or ceased to exist or is a person in whose case an officer of Revenue and Customs considers the person's failure to satisfy the liability to be of a serious nature.]
- (2) Any person who was a member of the pension scheme at any time during the relevant three-year period is liable to pay the appropriate share of the unpaid amount if—
- any of the conditions in subsection (5) is met, and
  - the Inland Revenue notifies the person of the person's liability to do so.
- (3) “The relevant three-year period” is the period of three years ending with the date on which the liability to pay the tax arose.
- (4) The “appropriate share of the unpaid amount”, in the case of a person, is—

$$\frac{AAP}{AA} \times UT$$

where—

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AA is an amount equal to aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the liability to pay the tax arose,

AAP is an amount equal to so much of AA as is held for the purposes of such of the arrangements under the pension scheme as relate to the person or a person connected with the person, and

UT is so much of the tax (and any interest on it) as remains unpaid.

- (5) The conditions referred to in subsection (2)(a) are—
- (a) that the pension scheme <sup>F14</sup>... was not an occupational pension scheme,
  - (b) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant personal pension contributions made by or in respect of the person,
  - (c) that the pension scheme was an occupational pension scheme and at any time during the relevant three-year period the person was a controlling director of a company that was a sponsoring employer, and
  - (d) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant controlling director contributions made by or in respect of the person.
- (6) A notification under subsection (2)(b) may be included in an assessment in respect of a liability under this section; and such an assessment made in relation to an amount is not out of time if made within the period of three years beginning with the date on which the person assessed first became liable to pay the amount.
- (7) “Relevant personal pension contributions” means contributions under a pension scheme (whether or not the pension scheme from which the transfer value was received) which <sup>F15</sup>... was not an occupational pension scheme.
- (8) “Relevant controlling director contributions” means contributions under an occupational pension scheme (whether or not the pension scheme from which the transfer value was received) made by reference to service (or remuneration in respect of service) as a controlling director of a company that was a sponsoring employer.
- (9) A person is a “controlling director” of a company if the person is a director of the company and is within [<sup>F16</sup>section 452(2)(b) of the Corporation Tax Act 2010] (director able to control 20% of ordinary share capital) in relation to the company.
- (10) References to receipt of a transfer value by the pension scheme are to the transfer, so as to become held for the purposes of or to represent rights under the pension scheme, of any sums or assets held for the purposes of or representing accrued rights under any other pension scheme.

[<sup>F17</sup>(11) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

**F13** S. 273(1A) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 20](#)

**F14** Words in s. 273(5)(a) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 4\(a\)24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

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- F15** Words in s. 273(7) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\), Sch. 20 paras. 4\(b\)24\(1\), Sch. 27 Pt. 3\(2\)](#)
- F16** Words in s. 273(9) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 428 \(with Sch. 2\)](#)
- F17** S. 273(11) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 478 \(with Sch. 2\)](#)

#### **Modifications etc. (not altering text)**

- C22** S. 273 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\), regs. 1\(1\), 3\(1\)\(2\), Sch. 3 Pt. 1](#)
- C23** S. 273 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 28](#)
- C24** S. 273 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\), regs. 1\(1\), 3\(6\)](#)

#### **Commencement Information**

- I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### **[<sup>F18</sup>273Z] Income and gains from taxable property**

- (1) The Treasury may make regulations in relation to cases where—
- an investment-regulated pension scheme holds an interest in taxable property,
  - the pension scheme is non-UK resident, and
  - the property is not located in the United Kingdom.
- (2) The regulations may make provision for a member of the pension scheme for the purposes of whose arrangement the interest is held to be liable to the scheme sanction charge so far as relating to a scheme chargeable payment treated as made by the pension scheme—
- under section 185A (income from taxable property) by virtue of the pension scheme holding the interest in the property, or
  - under section 185F (gains from taxable property) by virtue of a gain treated as accruing to the pension scheme in respect of the interest in the property.
- (3) The regulations may make provision—
- for the member to be liable to all of the scheme sanction charge arising by virtue of the scheme chargeable payment or to the charge to such extent as the regulations may provide,
  - for the charge to be apportioned between members of the pension scheme where the interest in the property is held for the purposes of more than one arrangement under the pension scheme, and
  - for the scheme administrator not to be liable to the scheme sanction charge or not to be liable to the charge to such extent as the regulations may provide.
- (4) The regulations may make provision for cases where—
- a member of a pension scheme would otherwise be liable to the scheme sanction charge arising by virtue of a scheme chargeable payment treated as made by the pension scheme under section 185F in a tax year,
  - the member does not meet such conditions as to residence in the tax year as the regulations may prescribe,

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- (c) the member meets those conditions in a subsequent tax year, and
  - (d) such other conditions as the regulations may prescribe are met.
- (5) The regulations may make provision for the member—
- (a) not to be liable to the scheme sanction charge in the tax year in which the scheme chargeable payment is treated as made, but
  - (b) to be liable in a subsequent tax year to such extent as the regulations may provide to the scheme sanction charge arising by virtue of the payment.
- (6) The regulations may—
- (a) amend this Part (apart from this section),
  - (b) include provision having effect in relation to times before they are made,
  - (c) contain transitional provisions and savings, and
  - (d) make different provision for different cases.
- (7) For the purposes of this section a pension scheme is non-UK resident if it is established in a country or territory outside the United Kingdom.]

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**Textual Amendments**

**F18** S. 273ZA inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 10](#)

**[<sup>F19</sup>273A Insurance company liable as scheme administrator**

- (1) The Board of Inland Revenue may make regulations in relation to cases where an insurance company makes a payment of—
- (a) a pension protection lump sum death benefit,
  - (b) an annuity protection lump sum death benefit, <sup>F20</sup> ...
  - [<sup>F21</sup>(c) a drawdown pension fund lump sum death benefit,][<sup>F22</sup>or
  - (d) a flexi-access drawdown fund lump sum death benefit,]
- which (by virtue of section 161(3) and (4)) is treated for the purposes of Chapter 3 as made by a registered pension scheme.
- (2) The regulations may provide that the insurance company—
- (a) is to be treated as the scheme administrator for the purposes of the operation of section 206 in relation to the lump sum death benefit, and
  - (b) is responsible for the discharge of all obligations imposed on the scheme administrator by or under this Part so far as related to the liability imposed by that section to pay tax in respect of it.
- (3) Where an insurance company is liable to pay any tax or interest, or is responsible for the discharge of any other obligation, by virtue of regulations under this section, no other person is liable to pay that tax, or responsible for the discharge of that obligation, under sections 270 to 273.]

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**Textual Amendments**

**F19** S. 273A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 49\(1\)](#), 64(1)

**F20** Word in s. 273A(1)(b) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 17\(a\)](#)

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- F21** S. 273A(1)(c) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 76](#)
- F22** S. 273A(1)(d) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 17\(b\)](#)

### **[<sup>F23</sup>273B Power of trustees or managers to make certain payments**

- (1) Subsection (2) applies to a payment by a registered pension scheme to or in respect of a person who is or has been a member of the scheme if it is paid in respect of a money purchase arrangement and is—
- (a) a payment of drawdown pension,
  - (b) paid to purchase a short-term annuity,
  - (c) a payment of dependants' drawdown pension,
  - (d) paid to purchase a dependants' short-term annuity,
  - (e) a payment of nominees' drawdown pension,
  - (f) paid to purchase a nominees' short-term annuity,
  - <sup>F24</sup> [ paid to purchase a nominees' annuity,
  - (fa) ]
  - (fb) paid to purchase a successors' annuity,]
  - (g) a payment of successors' drawdown pension,
  - (h) paid to purchase a successors' short-term annuity,
  - (i) an uncrystallised funds pension lump sum,
  - (j) a flexi-access drawdown fund lump sum death benefit,
  - (k) a pension commencement lump sum where the person becomes entitled to it in connection with becoming entitled to income withdrawal (or where the person dies after becoming entitled to it but before becoming entitled to the income withdrawal in connection with which it was expected that the person would become entitled to the lump sum), or
  - (l) a trivial commutation lump sum death benefit where condition B in paragraph 20(1B) of Schedule 29 is met.
- (2) The trustees or managers of the scheme may make the payment despite any provision of the rules of the scheme (however framed) prohibiting the making of the payment.]

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#### **Textual Amendments**

- F23** S. 273B inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 79](#)
- F24** S. 273B(1)(fa)(fb) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 11](#)

### **274 Supplementary**

- (1) The fact that any person is liable to pay any tax or interest, or is responsible for the discharge of any other obligation, under section 272 (trustees etc.)<sup>F25</sup>, section 272C(7)] or section 273 (members) does not relieve any other person of any liability to pay the tax or interest, or any obligation to discharge the obligation, arising—
- (a) by reason of that other person being, or being one of the persons who is, the scheme administrator of the pension scheme, or

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- (b) under section 271(4) (continuation of liability where no scheme administrator)<sup>F26</sup>, section 272C(3) or (4)].
- (2) Where a liability imposed on the scheme administrator of a registered pension scheme falls to be satisfied by two or more persons (whether or not they constitute the scheme administrator), they are jointly and severally liable.
- (3) No liability to pay tax or interest, or other obligation, of any person in relation to a registered pension scheme arising—
- (a) by reason of the person being, or being one of the persons who is, the scheme administrator of the pension scheme concerned, or
  - (b) under section 271(4), 272<sup>F27</sup>, 272C] or 273 <sup>F28</sup>or regulations under section 273A],
- is affected by the termination of the pension scheme or by its ceasing to be a registered pension scheme.

#### Textual Amendments

- F25** Word in s. 274(1) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 21\(2\)\(a\)](#)
- F26** Words in s. 274(1)(b) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 21\(2\)\(b\)](#)
- F27** Word in s. 274(3)(b) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 21\(3\)](#)
- F28** Words in s. 274(3)(b) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 49\(2\)](#), 64(1)

#### Modifications etc. (not altering text)

- C25** S. 274 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\)](#), [3\(1\)\(2\)](#), [Sch. 3 Pt. 1](#)
- C26** S. 274(2) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\)](#), [3\(7\)](#)

#### Commencement Information

- I5** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)