



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 7

COMPLIANCE

[^{F1}Relief from liability in respect of returned unauthorised member payments

[^{F1}266A Member's liability

- (1) This section applies where—
 - (a) a liability to the unauthorised payments charge, or to both the unauthorised payments charge and the unauthorised payments surcharge, has arisen in respect of an unauthorised member payment, and
 - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to [^{F2}a relevant order] as a result of the unauthorised member payment.
- (2) The member of the registered pension scheme to or in respect of whom the unauthorised member payment was made (or, if it was paid after his death, the recipient) may claim relief from—
 - (a) the relevant proportion of the unauthorised payments charge, and
 - (b) if a liability to the unauthorised payments surcharge has arisen and subsection (4) is satisfied, the relevant proportion of the unauthorised payments surcharge.
- (3) The claim must be made within the period of one year beginning with the day on which the property or money is transferred, or the sum paid.

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- (4) This subsection is satisfied if no part of the unauthorised member payment and no asset or sum representing it—
- (a) has been received by (or on behalf of) the member or a person connected with the member, or
 - (b) has been held for more than 180 days by a person or succession of persons, other than the member or a person connected with the member, involved in any transaction by which the unauthorised member payment was made.
- (5) The relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is—

$$\frac{\text{ASO}}{\text{UMP}}$$

where—

ASO is the amount subject to the [^{F3}relevant] order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the [^{F4}relevant order] in respect of the unauthorised member payment, and

UMP is the amount of the unauthorised member payment.

- (6) But if ASO is greater than UMP, the relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is the whole of it.

[In this section “relevant order” means an order under any of the following—

- ^{F5}(6A) (a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or
- (b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland).]

[^{F6}(7) 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

- F1** Ss. 266A, 266B and cross-heading inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 4, 64\(1\)](#)
- F2** Words in s. 266A(1)(b) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(2\)](#)
- F3** Word in s. 266A(5) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(3\)\(a\)](#)
- F4** Words in s. 266A(5) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(3\)\(b\)](#)
- F5** S. 266A(6A) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(4\)](#)
- F6** S. 266A(7) 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. 477](#) (with [Sch. 2](#))

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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\(2\)](#)