



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 7

COMPLIANCE

Discharge of tax liability: good faith

268 Unauthorised payments surcharge and scheme sanction charge

- (1) This section applies where—
 - (a) a person is liable to the unauthorised payments surcharge in respect of an unauthorised payment, or
 - (b) the scheme administrator of a registered pension scheme is liable to the scheme sanction charge in respect of a scheme chargeable payment.
- (2) The person liable to the unauthorised payments surcharge may apply to the Inland Revenue for the discharge of the person's liability to the unauthorised payments surcharge in respect of the unauthorised payment on the ground mentioned in subsection (3).
- (3) The ground is that in all the circumstances of the case, it would be not be just and reasonable for the person to be liable to the unauthorised payments surcharge in respect of the payment.
- (4) On receiving an application by a person under subsection (2) the Inland Revenue must decide whether to discharge the person's liability to the unauthorised payments surcharge in respect of the payment.

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- (5) The scheme administrator may apply to the Inland Revenue for the discharge of the scheme administrator's liability to the scheme sanction charge in respect of a scheme chargeable payment on the ground mentioned in subsection (6) or (7).
- (6) In the case of a scheme chargeable payment which is treated as being an unauthorised member payment by section 172^{F1}, 172A, 172B, ^{F2}... 172C or 172D ^{F3}..., the ground is that, in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to the scheme sanction charge.
- (7) In any other case, the ground is that—
- (a) the scheme administrator reasonably believed that the unauthorised payment was not a scheme chargeable payment, and
 - (b) in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to the scheme sanction charge in respect of the unauthorised payment.
- [^{F4}(7A) Subsection (7) applies with the omission of its paragraph (a) if the scheme chargeable payment is a payment of a lump sum where the conditions in paragraph 1B(2)(a) to (g) of Schedule 29 are met.]
- (8) On receiving an application under subsection (5), the Inland Revenue must decide whether to discharge the scheme administrator's liability to the scheme sanction charge in respect of the unauthorised payment.
- (9) The Inland Revenue must notify the applicant of the decision on an application under this section.
- (10) Regulations made by the Board of Inland Revenue may make provision supplementing this section; and the regulations may in particular make provision as to the time limits for the making of an application.

Textual Amendments

- F1** Words in s. 268(6) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 paras. 1729\(7\)](#)
- F2** Word in s. 268(6) omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 75\(a\)](#)
- F3** Words in s. 268(6) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 75\(b\)](#)
- F4** S. 268(7A) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(3\), 15](#)

Modifications etc. (not altering text)

- C1** S. 268 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

- I1** 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

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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\(2\)](#)