

## SCHEDULES

### SCHEDULE 7

Section 46

#### PENSION SCHEMES

##### *Introduction*

1 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

##### *Registration of pension schemes*

2 (1) Section 153 (applications for registration) is amended as follows.

(2) In subsection (4) for “On” substitute “Following”.

(3) In subsection (5) for paragraphs (a) and (b) substitute—

- “(a) any information falling within subsection (5A) is inaccurate in a material respect,
- (b) any document falling within subsection (5B) contains a material inaccuracy,
- (c) any declaration accompanying the application is false,
- (d) the scheme administrator has failed to comply with an information notice under section 153A given in connection with the application (including any declaration accompanying it),
- (e) the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under section 153B carried out in connection with the application (including any declaration accompanying it) where the inspection has been approved by the tribunal,
- (f) the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums), or
- (g) the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—
  - (i) the scheme administrator, or
  - (ii) one of the persons who are the scheme administrator.”

(4) After subsection (5) insert—

“(5A) The information falling within this subsection is any information—

- (a) contained in the application, or
- (b) otherwise provided to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise)

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in connection with the application (including any declaration accompanying it).

(5B) The documents falling within this subsection are any documents produced to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5C) The reference in subsection (5)(d) to the scheme administrator having failed to comply with an information notice under section 153A includes a case where the scheme administrator has concealed, destroyed or otherwise disposed of, or has arranged for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).”

3 After section 153 insert—

**“153A Power to require information or documents in relation to applications for registration**

- (1) This section applies where an application for a pension scheme to be registered is made.
- (2) An officer of Revenue and Customs may by notice (an “information notice”) require the scheme administrator or any other person—
  - (a) to provide the officer with any information, or
  - (b) to produce a document to the officer,
 if the officer reasonably requires the information or document in connection with the application (including any declaration accompanying it).
- (3) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.
- (4) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.
- (5) A person, other than the scheme administrator, who is given an information notice under this section may appeal against the notice or any requirement in the notice.
- (6) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (5) as it applies for the purposes of an appeal under Part 5 of that Schedule.

**153B Power to inspect documents in relation to applications for registration**

- (1) This section applies where an application for a pension scheme to be registered is made.
- (2) An officer of Revenue and Customs may—

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- (a) enter any business premises of the scheme administrator or any other person, and
  - (b) inspect documents that are on the premises,if the officer reasonably requires to inspect the documents in connection with the application (including any declaration accompanying it).
- (3) In subsection (2)(a) “business premises” has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).
- (4) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.
- (5) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36 to the Finance Act 2008 (restrictions on powers) applied by section 153A(3), an information notice under section 153A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.
- (6) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.
- (7) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application under subsection (6) as it applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

### **153C Penalties for failure to comply with information notices etc**

- (1) This section applies where a person other than the scheme administrator—
  - (a) fails to comply with an information notice under section 153A, or
  - (b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 153B that has been approved by the tribunal.
- (2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).
- (3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.

### **153D Penalties for inaccurate information in applications**

- (1) This section applies where—

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- (a) an application under section 153 contains information which is inaccurate,
  - (b) the inaccuracy is material, and
  - (c) condition A, B or C is met.
- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.
- (4) Condition B is that the scheme administrator knows of the inaccuracy at the time the application is made but does not inform an officer of Revenue and Customs at that time.
- (5) Condition C is that the scheme administrator—
- (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform an officer of Revenue and Customs.
- (6) The scheme administrator is liable to a penalty not exceeding the maximum penalty for which the scheme administrator could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the inaccuracy.
- (7) Where the information contains more than one material inaccuracy, a penalty is payable for each inaccuracy.
- (8) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule.

**153E Penalties for inaccurate information or documents provided under information notice**

- (1) This section applies where—
- (a) in complying with an information notice under section 153A, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  - (b) the inaccuracy is material.
- (2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule.

**153F Penalties for false declarations**

- (1) This section applies where—
- (a) a declaration accompanying an application under section 153 is false, and
  - (b) at least one of conditions A to C in section 153D is met (reading references to an inaccuracy as references to a falsehood and

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references to the scheme administrator as references to the person who made the declaration).

- (2) The person who made the declaration is liable to a penalty not exceeding the maximum penalty for which the person could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the falsehood.
- (3) Where the declaration contains more than one falsehood, a penalty is payable in relation to each falsehood.
- (4) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule.”

4 After section 156 insert—

**“156A Cases where application for registration not decided within 6 months**

- (1) This section applies where—
  - (a) an application for a pension scheme to be registered is made, but
  - (b) the scheme administrator is not notified under section 153(6) within the period of 6 months after the day on which the application is made.
- (2) The scheme administrator may appeal to the tribunal as if, at the end of that period of 6 months, the scheme administrator had been notified under section 153(6) of a decision not to register the scheme; and section 156(5) to (8) applies accordingly.”

- 5 (1) The amendments made by paragraphs 2 to 4 are treated as having come into force on 20 March 2014 and have effect in relation to applications made on or after that date.
- (2) In relation to an application made before 1 September 2014, section 153(5) of FA 2004 (as amended by paragraph 2(3)) has effect with the omission of paragraph (g).

*De-registration of pension schemes*

6 (1) Section 158 (grounds for de-registration) is amended as follows.

- (2) In subsection (1)—
  - (a) before paragraph (a) insert—

“(za) that the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums),”
  - (b) in paragraph (d) for “incorrect” substitute “inaccurate”,
  - (c) after paragraph (d) insert—

“(da) that the scheme administrator fails to produce any document required to be produced to an officer of Revenue and Customs by virtue of this Part or Part 1 of Schedule 36 to the Finance Act 2008,

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- (db) that any document produced to an officer of Revenue and Customs by the scheme administrator contains a material inaccuracy in relation to which at least one of conditions A to C in subsections (7) to (10) is met,” and”
- (d) for paragraph (e) substitute—
  - “(e) that any declaration accompanying the application to register the pension scheme, or otherwise made to an officer of Revenue and Customs in connection with the pension scheme, is false in a material particular,
  - (ea) that the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under Part 2 of Schedule 36 to the Finance Act 2008 that has been approved by the tribunal, or”.
- (3) In subsection (1) (as amended by sub-paragraph (2) above)—
  - (a) after paragraph (za) insert—
    - “(zb) that the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—
      - (i) the scheme administrator, or
      - (ii) one of the persons who are the scheme administrator,” and
  - (b) in paragraph (ea) after “under” insert “section 159B or”.
- (4) After subsection (5) insert—
  - “(6) Subsections (7) to (10) apply for the purposes of subsection (1)(db).
  - (7) Condition A is that the inaccuracy is careless or deliberate.
  - (8) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.
  - (9) Condition B is that the scheme administrator knows of the inaccuracy at the time the document is produced to an officer of Revenue and Customs but does not inform such an officer at that time.
  - (10) Condition C is that the scheme administrator—
    - (a) discovers the inaccuracy some time later, and
    - (b) fails to take reasonable steps to inform an officer of Revenue and Customs.”

7 In Chapter 2, after section 159 insert—

**“159A Power to require information or documents for purpose of considering if scheme administrator is fit and proper**

- (1) An officer of Revenue and Customs may by notice (an “information notice”) require the scheme administrator of a registered pension scheme or any other person—
  - (a) to provide the officer with any information, or
  - (b) to produce a document to the officer,

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if the officer reasonably requires the information or document for the purpose of considering whether the person who is, or any of the persons who are, the scheme administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).

- (2) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.
- (3) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.
- (4) A person who is given an information notice under this section may appeal against the notice or any requirement in the notice.
- (5) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (4) as it applies for the purposes of an appeal under Part 5 of that Schedule.

#### **159B Power to inspect documents for purpose of considering if scheme administrator is fit and proper**

- (1) An officer of Revenue and Customs may—
  - (a) enter any business premises of the scheme administrator of a registered pension scheme or of any other person, and
  - (b) inspect documents that are on the premises,if the officer reasonably requires to inspect the documents for the purpose of considering whether the person who is, or any of the persons who are, the scheme administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).
- (2) In subsection (1)(a) “business premises” has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).
- (3) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.
- (4) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36 to the Finance Act 2008 (restrictions on powers) applied by section 159A(2), an information notice under section 159A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.
- (5) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.
- (6) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application

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under subsection (5) as it applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

### **159C Penalties for failure to comply with information notices etc**

- (1) This section applies where a person—
  - (a) fails to comply with an information notice under section 159A, or
  - (b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 159B that has been approved by the tribunal.
- (2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 159A(2).
- (3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.

### **159D Penalties for inaccurate information or documents provided under information notice**

- (1) This section applies where—
  - (a) in complying with an information notice under section 159A, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  - (b) the inaccuracy is material.
- (2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule.”

- 8 (1) The amendments made by paragraphs 6 and 7 have effect in relation to pension schemes whenever registered (including schemes registered by virtue of paragraph 1 of Schedule 36 to FA 2004 (deemed registration of existing schemes)).
- (2) The amendments made by paragraph 6(2) and (4) are treated as having come into force on 20 March 2014.
- (3) The amendments made by paragraphs 6(3) and 7 come into force on 1 September 2014 or, if later, the day after the day on which this Act is passed.

### *Declarations required from person who is to be a scheme administrator*

- 9 (1) In section 270 (meaning of “scheme administrator”) in subsection (2)—
  - (a) after paragraph (a) omit “and”, and
  - (b) after paragraph (b) insert “, and



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(c) has made to an officer of Revenue and Customs any other declarations which are reasonably required by Her Majesty's Revenue and Customs.”

(2) The amendments made by this paragraph have effect in relation to appointments on or after 1 September 2014.

*Payments by registered pension schemes: surrender*

10 (1) Section 172A (payments by registered pension schemes: surrender) is amended as follows.

(2) In subsection (5) omit paragraph (d).

(3) After subsection (5) insert—

“(5A) Subsection (5)(b) applies only if the entitlement is held (or is to be held) by the dependant under an arrangement under the pension scheme relating to the member or dependant.”

11 In section 207 (authorised surplus payments charge) after subsection (6) insert—

“(6A) Subsection (1) does not apply to an authorised surplus payment to the extent that the payment is funded (directly or indirectly) by a surrender of (or an agreement to surrender) benefits or rights which results in the registered pension scheme being treated as making an unauthorised payment under section 172A.

(6B) Terms used in subsection (6A) which are defined in section 172A have the same meaning as they have in that section.”

12 The amendments made by paragraphs 10 and 11 have effect in relation to surrenders (or agreements to surrender) made on or after 20 March 2014.

*Orders for money etc to be restored to pension schemes*

13 (1) Section 188 (relief for members' contributions) is amended as follows.

(2) In subsection (2) after “(3)” insert “or (3A)”.

(3) After subsection (3) insert—

“(3A) This subsection applies to a contribution if the contribution results from the transfer of property or money, or the payment of a sum, towards the pension scheme pursuant to a relevant order in a case where—

(a) section 266A (members' liability in respect of unauthorised member payments) applies, and

(b) relief is claimed under that section in respect of the liability mentioned in subsection (1)(a) of that section.

(3B) In the case of a contribution which is greater than UMP (see section 266A(5)), subsection (3A) does not apply to the contribution so far as it is greater than UMP.

(3C) In subsection (3A) “relevant order” means an order under any of the following—

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- (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)."
- 14 (1) Section 266A (member's liability) is amended as follows.
  - (2) In subsection (1)(b) for the words from "an order" to "Regulator)" substitute "a relevant order".
  - (3) In subsection (5), in the definition of "ASO"—
    - (a) before the first "order" insert "relevant", and
    - (b) for the words from the second "order" to "2005" substitute "relevant order".
  - (4) After subsection (6) insert—
    - "(6A) In this section "relevant order" means an order under any of the following—
      - (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)."
- 15 (1) Section 266B (scheme's liability) is amended as follows.
  - (2) In subsection (1)(b) for the words from "an order" to "Regulator)" substitute "a relevant order".
  - (3) In subsection (3), in the definition of "ASO"—
    - (a) before the first "order" insert "relevant", and
    - (b) for the words from the second "order" to "2005" substitute "relevant order".
  - (4) After subsection (4) insert—
    - "(5) In this section "relevant order" means an order under any of the following—
      - (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)."
- 16 The amendments made by paragraphs 13 to 15 have effect in relation to orders made on or after 1 September 2014.

*Liabilities of trustees appointed by Pensions Regulator etc*

- 17 In section 255 (assessments under Part) in subsection (1) after paragraph (e) insert—
  - "(ea) liability under section 272C (former scheme administrator to retain liability in cases involving independent trustees etc),"
- 18 In section 272 (trustees etc liable as scheme administrator) in subsection (4) after "applying in relation to the pension scheme" insert "or by reason of section 272C(7) applying in relation to a liability".
- 19 After section 272 insert—

### **“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—
  - (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;
    - (ii) the serious ill-health lump sum charge;
    - (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;

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- (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.
- (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.

### **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).

### **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).

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- (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.
- (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)."
- 20 In section 273 (members liable as scheme administrator) after subsection (1) insert—
- “(1A) This section also applies in relation to a registered pension scheme if—
- (a) 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,
  - (b) that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
  - (c) 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.”
- 21 (1) Section 274 (supplementary) is amended as follows.
- (2) In subsection (1)—
- (a) after “(trustees etc)” insert “, section 272C(7)”, and
  - (b) in paragraph (b) after “administrator” insert “, section 272C(3) or (4)”.
- (3) In subsection (3)(b) after “272” insert “, 272C”.
- 22 Sections 272A to 272C (as inserted by paragraph 19) have effect for cases where the relevant day falls on or after 1 September 2014.

#### *Other provision*

- 23 In the following provisions (which relate to the giving of information etc) for “incorrect” (in all places) substitute “inaccurate”—
- (a) section 169(5)(a)(ii);
  - (b) section 257(4)(a) and (b);
  - (c) section 261(1)(a);

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*Status: This is the original version (as it was originally enacted).*

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(d) section 264(2)(a).