



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 2

REGISTRATION OF PENSION SCHEMES

Registration

153 Registration of pension schemes

- (1) An application may be made to the Inland Revenue for a pension scheme to be registered.
- (2) The application—
 - (a) must contain any information which is reasonably required by the Inland Revenue in any form specified by the Board of Inland Revenue, and
 - (b) must be accompanied by a declaration that the application is made by the scheme administrator (see section 270) and any other declarations by the scheme administrator which are reasonably required by the Inland Revenue.
- (3) The declarations which the Inland Revenue may require to accompany an application for the registration of a pension scheme include, in particular, a declaration that the instruments or agreements by which it is constituted do not entitle any person to unauthorised payments (see section 160(5)).
- (4) [F1Following] receipt of an application for a pension scheme to be registered the Inland Revenue must decide whether or not to register the pension scheme.
- (5) The Inland Revenue's decision must be to register the pension scheme unless it appears that—

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- [^{F2}(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][^{F3}, or
- (h) the pension scheme is an occupational pension scheme, and a sponsoring employer in relation to the scheme is a body corporate that has been dormant during a continuous period of one month that falls within the period of one year ending with the day on which the decision is made, or
- (i) the pension scheme is an unauthorised Master Trust scheme.]
- [^{F4}(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) 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).]
- (6) The Inland Revenue must notify the scheme administrator of the decision on the application.
- (7) Unless the Inland Revenue's decision is not to register the pension scheme, the notification must state the day on and after which the pension scheme will be a registered pension scheme.
- (8) An annuity contract [^{F5}made with an insurance company]—
- (a) by means of which benefits under a registered pension scheme have been secured, but
- (b) which does not provide for the immediate payment of benefits,

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is to be treated as having become a registered pension scheme on the day on which it is made.

[^{F6}(8A) Where an order has been made under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (restitution by order of court or Pensions Regulator) that property or money be transferred, or a sum be paid, towards an annuity contract made with an insurance company, the annuity contract is to be treated as having become a registered pension scheme on the day on which it is made.]

(9) Schedule 36 contains (in Part 1) provisions treating certain pension schemes in existence immediately before 6th April 2006 as registered pension schemes (and related provisions).

Textual Amendments

- F1** Word in s. 153(4) substituted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(2\), 5\(1\)](#)
- F2** S. 153(5)(a)-(g) substituted for s. 153(5)(a) (with effect in accordance with Sch. 7 para. 5 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(3\), 5\(1\)](#)
- F3** S. 153(5)(h)(i) and word inserted (15.3.2018 for specified purposes, 6.4.2018 in so far as not already in force) by [Finance Act 2018 \(c. 3\)](#), [Sch. 3 paras. 1\(3\), 2\(1\)\(a\)\(2\)\(a\)\(3\)](#)
- F4** S. 153(5A)-(5C) inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(4\), 5\(1\)](#)
- F5** Words in s. 153(8) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 2, 64\(1\)](#)
- F6** S. 153(8A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 3, 64\(1\)](#)

[^{F7}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.

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- (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.

Textual Amendments

- F7** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

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—
- (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.

Textual Amendments

- F7** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

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

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- (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.

Textual Amendments

- F7** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

153D Penalties for inaccurate information in applications

- (1) This section applies where—
 - (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.

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Textual Amendments

F7 Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 paras. 3, 5(1)**

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.

Textual Amendments

F7 Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 paras. 3, 5(1)**

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 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.]

Textual Amendments

F7 Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 paras. 3, 5(1)**

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154 Persons by whom registered pension scheme may be established

[^{F8}(1) An application to register a pension scheme may be made only if the pension scheme—
(a) is an occupational pension scheme, or
(b) has been established by a person with permission under FISMA 2000 to establish in the United Kingdom a personal pension scheme or a stakeholder pension scheme.]

(2) But subsection (1) does not apply to a public service pension scheme.

[^{F9}(2A) Subsection (1) is to be construed in accordance with section 22 of FISMA 2000, any relevant order under that section and Schedule 2 to that Act.]

^{F10}(3)

(4) The Treasury may by order amend this section ^{F11}....

Textual Amendments

F8 S. 154(1) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(2\)](#), [24\(1\)](#)

F9 S. 154(2A) inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(3\)](#), [24\(1\)](#)

F10 S. 154(3) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(4\)](#), [24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

F11 Words in s. 154(4) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(5\)](#), [24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

^{F12}155 Persons by whom scheme may be established: supplementary

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Textual Amendments

F12 S. 155 repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 324\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

156 Appeal against decision not to register

(1) This section applies where, on an application for a pension scheme to be registered, the Inland Revenue's decision is not to register the pension scheme.

(2) The scheme administrator may appeal against the decision.

^{F13}(3)

^{F13}(4)

(5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the scheme administrator was notified of the decision.

(6) [^{F14}On an appeal under this section that is notified to the tribunal, the tribunal] must consider whether the pension scheme ought to have been registered by the Inland Revenue.

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- (7) If [^{F15}the tribunal decides] that the pension scheme ought not to have been registered by the Inland Revenue, [^{F16}the tribunal must] dismiss the appeal.
- (8) If [^{F17}the tribunal decides] that the pension scheme ought to have been registered by the Inland Revenue, the pension scheme is to be treated as having been registered on such date as the [^{F18}tribunal determines] (but subject to any further appeal ^{F19}...).

Textual Amendments

- F13** S. 156(3)(4) 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. 423(2)**
- F14** Words in s. 156(6) 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. 423(3)**
- F15** Words in s. 156(7) 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. 423(4)(a)**
- F16** Words in s. 156(7) 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. 423(4)(b)**
- F17** Words in s. 156(8) 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. 423(5)(a)**
- F18** Words in s. 156(8) 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. 423(5)(b)**
- F19** Words in s. 156(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. 423(5)(c)**

[^{F20}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.]

Textual Amendments

- F20** S. 156A inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 paras. 4, 5(1)**

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Registration.