



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 3

#### PAYMENTS BY REGISTERED PENSION SCHEMES

##### *Unauthorised member payments*

#### 172 Assignment

- (1) Subsection (2) applies if a member of a registered pension scheme (or the member's personal representatives) assigns or agrees to assign
  - <sup>[F1]</sup>(a) any benefit, other than an excluded pension, to which the member (or any dependant of the member) has an actual or prospective entitlement under the pension scheme, or
  - (b) any right in respect of any sums or assets held for the purposes of any arrangement under the pension scheme].
- (2) Unless the assignment or agreement is pursuant to a pension sharing order or provision, the pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives in respect of the member).
- (3) Subsection (4) applies if a person (or a person's personal representatives) assigns or agrees to assign
  - <sup>[F2]</sup>(a) any benefit, other than an excluded pension, to which the person has <sup>[F3]</sup>a] prospective entitlement under the pension scheme in respect of a member of the pension scheme, or
  - (b) any right in respect of any sums or assets held for the purposes of any arrangement relating to <sup>[F4]</sup>a member of the pension scheme] under the pension scheme].

*Status: Point in time view as at 01/10/2010. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Section 172. (See end of Document for details)*

- (4) Unless the assignment or agreement is pursuant to a pension sharing order or provision, the pension scheme is to be treated as making an unauthorised payment to the person (or the person's personal representatives) in respect of the member.
- (5) The amount of the unauthorised payment is the greater of—
- (a) the consideration received in respect of the assignment or agreement, and
  - (b) the consideration which might be expected to be received in respect of the assignment or agreement if the parties to the transaction were at arm's length [<sup>F5</sup> and any power to reduce the entitlement to the benefit or right did not exist].
- (6) Where a pension scheme is treated by this section as having made an unauthorised payment in relation to an assignment (or an agreement to assign), payments by the pension scheme of the benefit [<sup>F6</sup> or right] assigned (or agreed to be assigned) are not unauthorised payments.
- [<sup>F7</sup>(6A) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—
- (a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or
  - (b) a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme.]
- [<sup>F8</sup>(7) An excluded pension is so much of any pension which under pension rule 2 may continue to be paid after the member's death as may be so paid.]
- (8) "Assignment" includes assignation and related expressions are to be read accordingly.

#### Textual Amendments

- F1** S. 172(1)(a)(b) substituted for words (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(2\), 64\(1\)](#)
- F2** S. 172(3)(a)(b) substituted for words (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(3\), 64\(1\)](#)
- F3** Word in s. 172(3)(a) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 2\(2\)\(a\)](#)
- F4** Words in s. 172(3)(b) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 2\(2\)\(b\)](#)
- F5** Words in s. 172(5)(b) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(4\), 64\(1\)](#)
- F6** Words in s. 172(6) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(5\), 64\(1\)](#)
- F7** S. 172(6A) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 2\(3\)](#)
- F8** S. 172(7) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(6\), 64\(1\)](#)

#### 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

**Status:**

Point in time view as at 01/10/2010. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2004, Section 172.