



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 7

COMPLIANCE

Scheme administrator

273 Members liable as scheme administrator

- (1) This section applies in relation to a registered pension scheme if—
 - (a) a person has, or persons have, assumed liability by reason of section 272 (trustees etc.) applying in relation to the pension scheme,
 - (b) the person has, or the persons have, become liable to pay tax (or interest on tax) which became due by virtue of section 239 (scheme sanction charge) or section 242 (de-registration charge) before section 272 applied in relation to the pension scheme,
 - (c) that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
 - (d) that person, or each of those persons, has either died or ceased to exist or is a person in whose case the Inland Revenue considers the person's failure to satisfy the liability to be of a serious nature.
- (2) Any person who was a member of the pension scheme at any time during the relevant three-year period is liable to pay the appropriate share of the unpaid amount if—
 - (a) any of the conditions in subsection (5) is met, and
 - (b) the Inland Revenue notifies the person of the person's liability to do so.

Status: This is the original version (as it was originally enacted).

(3) “The relevant three-year period” is the period of three years ending with the date on which the liability to pay the tax arose.

(4) The “appropriate share of the unpaid amount”, in the case of a person, is—

$$\frac{AAP}{AA} \times UT$$

where—

AA is an amount equal to aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the liability to pay the tax arose,

AAP is an amount equal to so much of AA as is held for the purposes of such of the arrangements under the pension scheme as relate to the person or a person connected with the person, and

UT is so much of the tax (and any interest on it) as remains unpaid.

(5) The conditions referred to in subsection (2)(a) are—

- (a) that the pension scheme was established by a person or body specified in section 154(1)(a) to (g) (insurance companies etc.) and was not an occupational pension scheme,
- (b) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant personal pension contributions made by or in respect of the person,
- (c) that the pension scheme was an occupational pension scheme and at any time during the relevant three-year period the person was a controlling director of a company that was a sponsoring employer, and
- (d) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant controlling director contributions made by or in respect of the person.

(6) A notification under subsection (2)(b) may be included in an assessment in respect of a liability under this section; and such an assessment made in relation to an amount is not out of time if made within the period of three years beginning with the date on which the person assessed first became liable to pay the amount.

(7) “Relevant personal pension contributions” means contributions under a pension scheme (whether or not the pension scheme from which the transfer value was received) which was established by a person or body specified in section 154(1)(a) to (g) and was not an occupational pension scheme.

(8) “Relevant controlling director contributions” means contributions under an occupational pension scheme (whether or not the pension scheme from which the transfer value was received) made by reference to service (or remuneration in respect of service) as a controlling director of a company that was a sponsoring employer.

(9) A person is a “controlling director” of a company if the person is a director of the company and is within section 417(5)(b) of ICTA (director able to control 20% of ordinary share capital) in relation to the company.

(10) References to receipt of a transfer value by the pension scheme are to the transfer, so as to become held for the purposes of or to represent rights under the pension scheme, of any sums or assets held for the purposes of or representing accrued rights under any other pension scheme.

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

(11) Section 839 of ICTA (connected persons) applies for the purposes of this section.