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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Paragraph 4. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### PENSION SCHEMES ETC.

##### *Orders for return of unauthorised payments*

4 After section 266 insert—

*“Relief from liability in respect of returned unauthorised member payments*

#### **266A Member's liability**

- (1) This section applies where—
  - (a) a liability to the unauthorised payments charge, or to both the unauthorised payments charge and the unauthorised payments surcharge, has arisen in respect of an unauthorised member payment, and
  - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to an order 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) as a result of the unauthorised member payment.
- (2) The member of the registered pension scheme to or in respect of whom the unauthorised member payment was made (or, if it was paid after his death, the recipient) may claim relief from—
  - (a) the relevant proportion of the unauthorised payments charge, and
  - (b) if a liability to the unauthorised payments surcharge has arisen and subsection (4) is satisfied, the relevant proportion of the unauthorised payments surcharge.
- (3) The claim must be made within the period of one year beginning with the day on which the property or money is transferred, or the sum paid.
- (4) This subsection is satisfied if no part of the unauthorised member payment and no asset or sum representing it—
  - (a) has been received by (or on behalf of) the member or a person connected with the member, or
  - (b) has been held for more than 180 days by a person or succession of persons, other than the member or a person connected with the member, involved in any transaction by which the unauthorised member payment was made.
- (5) The relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is—

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$$\frac{\text{ASO}}{\text{UMP}}$$

where—

ASO is the amount subject to the order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the order 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 in respect of the unauthorised member payment, and

UMP is the amount of the unauthorised member payment.

- (6) But if ASO is greater than UMP, the relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is the whole of it.
- (7) Section 839 of ICTA (connected persons) applies for the purposes of this section.

#### **266B Scheme's liability**

- (1) This section applies where—
  - (a) the scheme administrator of a registered pension scheme has become liable to the scheme sanction charge in respect of an unauthorised member payment, and
  - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to an order 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) as a result of the unauthorised member payment.
- (2) The scheme administrator may, within the period of one year beginning with the day on which the property or money is transferred, or the sum paid, claim relief from the relevant proportion of the scheme sanction charge.
- (3) The relevant proportion of the scheme sanction charge is—

$$\frac{\text{ASO}}{\text{UMP}}$$

where—

ASO is the amount subject to the order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the order 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 in respect of the unauthorised member payment, and

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UMP is the amount of the unauthorised member payment.

(4) But if ASO is greater than UMP, the relevant proportion of the scheme sanction charge is the whole of it.”

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**Commencement Information**

**II** Sch. 10 para. 4 in force at 6.4.2006, see Sch. 10 para. 64(1)

**Changes to legislation:**

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