

## **EXPLANATORY NOTE**

### **AMENDMENTS 6 TO 10, SCHEDULE 5 PENSION SCHEMES**

#### **SUMMARY**

1. These amendments to paragraphs 19 and 21 of Schedule 5 ensure that a former scheme administrator, on whom tax liabilities are imposed under new section 272C of Finance Act 2004, has a right of appeal against being made liable for the tax charges. They also provide that scheme administrators appointed after an intervention by the Pensions Regulator has ended, take over all outstanding tax liabilities of the scheme. In addition, the amendments make a number of minor drafting improvements.

#### **DETAILS OF THE AMENDMENTS**

2. Amendment 6 amends new section 272A(2)(b), which paragraph 19 of Schedule 5 inserts into Finance Act 2004, to clarify which current trustees new sections 272A to 272C do not apply to, because they also acted as trustees before the regulatory intervention began.
3. Amendments 7 and 8 amend new section 272C, which paragraph 19 of Schedule 5 inserts into Finance Act 2004, to clarify firstly who is liable for tax if there was no scheme administrator at the time the regulatory intervention began and secondly that the provisions operate irrespective of whether the person made liable for paying the tax charges is already liable for that tax..
4. Amendment 9 inserts new subsections (10) to (12) into new section 272C.
5. New section 272C(10) provides that a new scheme administrator appointed after the Pension Regulator's intervention in the pension scheme has come to an end, takes over responsibility for all the outstanding tax liabilities of the pension scheme.
6. New sections 272C(11) and (12) provide that a scheme administrator, who has assumed liabilities by virtue of new sections 272C(3) and (4), may apply to HMRC to be released from those liabilities and has the right of appeal to an independent tribunal if HMRC refuses the application.
7. Amendment 10 removes new subsection (2A) from section 274 Finance Act 2004, which paragraph 21(3) of Schedule 5 inserted into that section, to ensure that a scheme administrator P or Q does not ever become liable for the tax charges, liability for which is removed from them by new section 272C.

**BACKGROUND NOTE**

8. Clause 43 and Schedule 5 are concerned with pension liberation and provide new powers for HMRC to help detect and prevent schemes suspected of involvement in liberation from being registered for tax relief. They also make a number of amendments where the Pensions Regulator (TPR) intervenes in a registered pension scheme in order to safeguard the members interests, for example where they suspect a scheme of being involved in pension liberation and this leads to the appointment of new independent trustees and a scheme administrator to manage that scheme. The changes are intended to ensure that any tax liabilities are fair.

If you have any questions about this change please contact Paul Cottis on 03000 564209 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).

**Tuesday 29 April 2014**  
**PUBLIC BILL COMMITTEE**

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Mr David Gauke

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- \* Schedule 5, page 232, line 31, leave out ‘the relevant day’ and insert ‘—
- (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’.

Mr David Gauke

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- \* Schedule 5, page 234, line 41, leave out ‘the liability of’ and insert ‘retained or assumed by’.

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- \* Schedule 5, page 234, line 45, leave out from ‘be’ to end of line 46 and insert ‘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)’.

Mr David Gauke

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- \* Schedule 5, page 235, line 17, leave out ‘section).’” and insert ‘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).’”.

Mr David Gauke

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- \* Schedule 5, page 235, line 39, leave out sub-paragraph (3).