

SCHEDULES

SCHEDULE 38

TAX AGENTS: DISHONEST CONDUCT

PART 7

CONSEQUENTIAL PROVISIONS

TMA 1970

- 44 TMA 1970 is amended as follows.
- 45 Omit—
- (a) section 20A (power to call for papers of tax accountant),
 - (b) section 20B (restrictions on powers under section 20A), and
 - (c) section 99 (assisting in preparation of incorrect return etc).
- 46 (1) Section 20BB (falsification etc of documents) is amended as follows.
- (2) In subsection (1)—
- (a) for “subsections (2) to (4)” substitute “subsections (2) and (3)”,
 - (b) in paragraph (a), omit “a notice under section 20A above or”,
 - (c) at the end of that paragraph, omit “or”, and
 - (d) omit paragraph (b).
- (3) In subsection (2)—
- (a) in paragraph (a), omit “, the inspector”,
 - (b) at the end of that paragraph, insert “or”,
 - (c) at the end of paragraph (b), omit “or”, and
 - (d) omit paragraph (c).
- (4) In subsection (3), for the words from “the notice is given” to the end substitute “the order is made, unless before the end of that period an officer of Revenue and Customs has notified the person in writing that the order has not been complied with to the officer’s satisfaction”.
- (5) Omit subsection (4).
- 47 In section 20D (interpretation of sections 20 to 20CC)—
- (a) in subsection (1), for “sections 20A and 20BA” substitute “section 20BA”, and
 - (b) omit subsection (2).
- 48 In section 103 (time limits for penalties)—
- (a) omit subsection (3), and

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- (b) in subsection (4), for “neither subsection (1) nor subsection (3) above applies” substitute “subsection (1) does not apply”.
- 49 In section 103ZA (disapplication of sections 100 to 103)—
 - (a) omit “or” at the end of paragraph (e), and
 - (b) at the end of paragraph (f) insert “, or
 - (g) Schedule 38 to FA 2012 (tax agents: dishonest conduct).”
- 50 In section 118 (interpretation), in the definition of “tax”, omit the words from “except that” to the end.

OTA 1975

- 51 In Schedule 2 to OTA 1975 (management and collection of petroleum revenue tax), in the Table in paragraph 1(1), omit the entry relating to section 99 of TMA 1970.

IHTA 1984

- 52 In section 247 of IHTA 1984 (provision of incorrect information), omit subsection (4).

Social Security Contributions and Benefits Act 1992

- 53 In section 16 of the Social Security Contributions and Benefits Act 1992 (applications of Income Tax Acts and destination of Class 4 contributions), in subsection (1)(c), after “2009” insert “and of Schedule 38 to the Finance Act 2012”.
- 54 In paragraph 7B of Schedule 1 to that Act (collection of contributions other than through PAYE system), the reference in sub-paragraph (5A) to Part 10 of TMA 1970 includes a reference to this Schedule.

Social Security Contributions and Benefits (Northern Ireland) Act 1992

- 55 In paragraph 7B of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (collection of contributions other than through PAYE system), the reference in sub-paragraph (5A) to Part 10 of TMA 1970 includes a reference to this Schedule.

Social Security Administration Act 1992

- 56 In section 110ZA of the Social Security Administration Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), after subsection (2) insert—
 - “(2A) Part 3 of Schedule 38 to the Finance Act 2012 (power to obtain tax agent’s files etc) applies in relation to relevant contributions as in relation to tax and, accordingly—
 - (a) the cases described in paragraph 7 of that Schedule (case A and case B) include cases involving conduct or an offence relating to relevant contributions,
 - (b) (whether the case involves conduct or an offence relating to tax or relevant contributions) the papers and other documents that may be sought under that Part include ones relating to relevant contributions, and

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- (c) the other Parts of that Schedule apply so far as necessary to give effect to the application of Part 3 by virtue of this subsection.”

Social Security Administration (Northern Ireland) Act 1992

57 In section 104ZA of the Social Security Administration (Northern Ireland) Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), after subsection (2) insert—

“(2A) Part 3 of Schedule 38 to the Finance Act 2012 (power to obtain tax agent’s files etc) applies in relation to relevant contributions as in relation to tax and, accordingly—

- (a) the cases described in paragraph 7 of that Schedule (case A and case B) include cases involving conduct or an offence relating to relevant contributions,
- (b) (whether the case involves conduct or an offence relating to tax or relevant contributions) the papers and other documents that may be sought under that Part include ones relating to relevant contributions, and
- (c) the other Parts of that Schedule apply so far as necessary to give effect to the application of Part 3 by virtue of this subsection.”

FA 2003

58 (1) FA 2003 is amended as follows.

(2) In section 93 (information powers)—

- (a) in subsection (2), omit the entries relating to Parts 3 and 4 of Schedule 13, and
- (b) omit subsections (3) to (6).

(3) Omit section 96 (penalty for assisting in preparation of incorrect return etc).

(4) In Schedule 13 (stamp duty land tax: information powers)—

- (a) omit Parts 3 and 4, and
- (b) for paragraph 53 substitute—

“53 (1) A person commits an offence if the person intentionally—

- (a) falsifies, conceals, destroys or otherwise disposes of a relevant document, or
- (b) causes or permits the falsification, concealment, destruction or disposal of a relevant document.

(2) A relevant document is a document that the person has been required by an order under Part 6 of this Schedule to deliver.

(3) A person does not commit an offence under this paragraph if the person acts—

- (a) with the written permission of the tribunal or an officer of Revenue and Customs, or
- (b) after the document has been delivered.

(4) A person does not commit an offence under this paragraph if the person acts after the end of the period of 2 years beginning with

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the date on which the order is made, unless before the end of that period an officer of Revenue and Customs has notified the person in writing that the order has not been complied with to the officer's satisfaction.

- (5) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or to both.”