
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, PART 1. (See end of Document for details)

SCHEDULES

SCHEDULE 8

ENFORCEMENT BY DEDUCTION FROM ACCOUNTS

PART 1

SCHEME FOR ENFORCEMENT BY DEDUCTION FROM ACCOUNTS

Introduction

- 1 This Part of this Schedule contains provision about the collection of amounts due and payable to the Commissioners by the making of deductions from accounts held with deposit-takers.

“Relevant sum”

- 2 (1) In this Part of this Schedule “relevant sum”, in relation to a person, means a sum that is due and payable by the person to the Commissioners—
- (a) under or by virtue of an enactment, or
 - (b) under a contract settlement,
- and in relation to which Conditions A to C are met.
- (2) Condition A is that the sum is at least £1,000.
- (3) Condition B is that the sum is—
- (a) an established debt (see sub-paragraph (5)),
 - (b) due under section 223 of, or paragraph 6 of Schedule 32 to, FA 2014 (accelerated payment notice or partner payment notice), or
 - (c) the disputed tax specified in a notice under section 221(2)(b) of FA 2014 (accelerated payment of tax: notice given pending appeal).
- (4) Condition C is that HMRC is satisfied that the person is aware that the sum is due and payable by the person to the Commissioners.
- (5) A sum that is due and payable to the Commissioners is an “established debt” if there is no possibility that the sum, or any part of it, will cease to be due and payable to the Commissioners on appeal.
- (6) For the purposes of sub-paragraph (5) it does not matter whether the reason that there is no such possibility is—
- (a) that there is no right of appeal in relation to the sum,
 - (b) that a period for bringing an appeal has expired without an appeal having been brought, or
 - (c) that an appeal which was brought has been finally determined or withdrawn; and any power to grant permission to appeal out of time is to be disregarded.

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Information notice

- 3 (1) This paragraph applies if it appears to HMRC that—
- (a) a person has failed to pay a relevant sum, and
 - (b) that person holds one or more accounts with a deposit-taker.
- (2) HMRC may give the deposit-taker a notice under this paragraph (an “information notice”) requiring the deposit-taker to provide HMRC with—
- (a) prescribed information about accounts held by the person with the deposit-taker,
 - (b) in relation to any joint account held by the person with the deposit-taker, prescribed information about the other holder or holders of the account, and
 - (c) any other prescribed information.
- (3) HMRC may exercise the power under sub-paragraph (2) only for the purposes of determining whether to give a hold notice to the deposit-taker in respect of the person concerned (see paragraph 4).
- (4) Where a deposit-taker is given an information notice, it must comply with the notice as soon as reasonably practicable and, in any event, within the period of 10 working days beginning with the day on which the notice is given to it.
- (5) An information notice must explain the effect of—
- (a) sub-paragraph (4), and
 - (b) paragraph 14 (penalties).

Hold notice

- 4 (1) If it appears to HMRC that—
- (a) a person (“P”) has failed to pay a relevant sum, and
 - (b) P holds one or more accounts with a deposit-taker,
- HMRC may give the deposit-taker a notice under this paragraph (a “hold notice”).
- (2) The hold notice must—
- (a) specify P's name and last known address,
 - (b) specify as the “specified amount” an amount that meets the conditions in sub-paragraph (4),
 - (c) specify as the “safeguarded amount” an amount that meets the requirements set out in sub-paragraphs (6) to (8),
 - (d) set out any rules which are to apply for the purposes of paragraph 7(5)(b) (priority of accounts subject to a hold notice),
 - (e) explain the effect of—
 - (i) paragraphs 6 to 13 (effect of hold notice, duty to notify account holders etc),
 - (ii) paragraph 14 (penalties), and
 - (iii) any regulations under paragraph 20(2)(c) or (d) (powers to restrict the accounts or amounts in relation to which a hold notice may have effect, in addition to the powers to make provision in the hold notice under sub-paragraph (3)(b) and (c)), and
 - (f) contain a statement about HMRC's compliance with paragraph 5 in relation to the notice.

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For provision about the particular relevant sums to which a hold notice relates see paragraph 8(6)(a)(ii) and (7) (notice to be given by HMRC to P).

- (3) The hold notice may—
 - (a) specify any other information which HMRC considers might assist the deposit-taker in identifying accounts which P holds with it;
 - (b) specify an account, or description of account, which is to be treated for the purposes of the hold notice and this Part of this Schedule as not being an account held by P with the deposit-taker;
 - (c) require that an amount specified in the notice is to be treated for the purposes of the hold notice and this Part of this Schedule as if it were not an amount standing to the credit of a specified account held by P.
- (4) The amount specified as the specified amount in the hold notice (“the current hold notice”) must not exceed so much of the notified sum (see paragraph 8(6) to (8)) as remains after deducting—
 - (a) the amount specified as the “specified amount” in any hold notice which relates to the same debts as the current hold notice (see sub-paragraph (5)) and is given to another deposit-taker on the same day as that notice, and
 - (b) the amount specified as the “specified amount” in any hold notice which relates to the same debts as the current hold notice and is given to a deposit-taker on an earlier day, (unless HMRC has received a notification under paragraph 8(4) in relation to that earlier hold notice).
- (5) For the purposes of this paragraph, any two hold notices given in respect of the same person “relate to the same debts” if at least one relevant sum specified in relation to one of those notices by virtue of paragraph 8(7)(a) is the same debt as a relevant sum so specified in relation to the other notice.
- (6) The amount specified in the hold notice as the safeguarded amount must be at least £5,000; but this is qualified by sub-paragraphs (7) and (8).
- (7) The safeguarded amount must be nil if—
 - (a) HMRC has previously given a deposit-taker a hold notice (“the earlier hold notice”) relating to the same debts as the hold notice mentioned in sub-paragraph (2) (“the new hold notice”), and
 - (b) within the period of 30 days ending with the day on which the new hold notice is given to the deposit-taker, HMRC has received a notice under paragraph 8 which states that there is a held amount as a result of the earlier hold notice.
- (8) HMRC may (in a case not falling within sub-paragraph (7)) determine that an amount less than £5,000 (which may be nil) is to be the safeguarded amount if HMRC considers it appropriate to do so having regard to the value (or aggregate value) in sterling at the relevant time of any amounts which at that time stand to the credit of a qualifying non-sterling account or accounts.
- (9) In sub-paragraph (8) “qualifying non-sterling account” means an account which, but for paragraph 6(6)(b) (account not denominated in sterling), would be a relevant account in relation to the hold notice.
- (10) For the purposes of sub-paragraph (8), the value in sterling of any amount is to be determined in the prescribed manner; and regulations for the purposes of this sub-

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paragraph may specify circumstances in which the exchange rate is to be determined in accordance with a notice published by the Commissioners.

- (11) In sub-paragraph (8) “the relevant time” means the time when the Commissioners determine the amount to be specified as the “safeguarded amount” under sub-paragraph (2)(c).
- (12) HMRC must not on any one day give to a single deposit-taker more than one hold notice relating to the same debts.

Persons at a particular disadvantage in dealing with Revenue and Customs affairs

- 5 (1) Before deciding whether or not to exercise the power under paragraph 3(2) or 4(1) in relation to a person, HMRC must consider whether or not, to the best of HMRC's knowledge, there are any matters as a result of which the person is, or may be, at a particular disadvantage in dealing with the person's Revenue and Customs affairs.
- (2) If HMRC determines that there are any such matters, HMRC must take those matters into account in deciding whether or not to exercise the power concerned in relation to the person.
- (3) The Commissioners must publish guidance as to the factors which are relevant to determining whether or not a person is at a particular disadvantage in dealing with the person's Revenue and Customs affairs for the purposes of this Schedule.
- (4) In this paragraph “Revenue and Customs affairs”, in relation to a person by whom a relevant sum is payable, means any affairs of the person which relate to the relevant sum.

Effect of hold notice

- 6 (1) A deposit-taker to whom a hold notice is given under paragraph 4 must, for each relevant account (see sub-paragraph (6))—
 - (a) determine whether or not there is a held amount (greater than nil) in relation to that account, and
 - (b) if there is such a held amount in relation to that account, take the first or second type of action (see sub-paragraph (3)) in respect of that account.

See paragraph 7 for how to determine the held amount in relation to any relevant account.

- (2) The deposit-taker must comply with sub-paragraph (1) as soon as is reasonably practicable and, in any event, within the period of 5 working days beginning with the day on which the hold notice is given.
- (3) In relation to each affected account (see sub-paragraph (7))—
 - (a) the first type of action is to put in place such arrangements as are necessary to ensure that the deposit-taker does not do anything, or permit anything to be done, that would reduce the amount standing to the credit of that account below the held amount in relation to that account;
 - (b) the second type of action is to—
 - (i) transfer an amount equal to the held amount from the affected account into an account created by the deposit-taker for the sole purpose of containing that transferred amount (a “suspense account”), and

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- (ii) put in place such arrangements as are necessary to ensure that the deposit-taker does not do anything, or permit anything to be done, that would reduce the amount standing to the credit of that suspense account below the amount that is the held amount in relation to the affected account.
- (4) The deposit-taker must maintain any arrangements made under sub-paragraph (3) until the hold notice ceases to be in force.
 - (5) A hold notice ceases to be in force when—
 - (a) the deposit-taker is given a notice cancelling it under paragraph 9 or 11 or the hold notice is cancelled under paragraph 12, or
 - (b) the deposit-taker is given a deduction notice in relation to the hold notice (see paragraph 13).
 - (6) In this Part of this Schedule “relevant account”, in relation to a hold notice, means an account held with the deposit-taker by P, but not including—
 - (a) an account excluded under paragraph 4(3)(b) or by regulations under paragraph 20(2)(c),
 - (b) an account not denominated in sterling, or
 - (c) any suspense account.
 - (7) For the purposes of this Part of this Schedule, a relevant account is an “affected account” if, as a result of the hold notice, an amount is the held amount in relation to that account (see paragraph 7(1) and (2)).

Determination of held amounts

- 7 (1) If there is only one relevant account (see paragraph 6(6)) in existence at the time the deposit-taker complies with paragraph 6(1), “the held amount” in relation to that account is—
- (a) if the available amount in respect of the account (see sub-paragraph (3)) exceeds the safeguarded amount, so much of the amount of the excess as does not exceed the specified amount, and
 - (b) if the available amount does not exceed the safeguarded amount, nil.

For the meaning of “the safeguarded amount” and “the specified amount” see paragraph 23(1).

- (2) If there is more than one relevant account in existence at the time the deposit-taker complies with paragraph 6(1), “the held amount” in relation to each relevant account is determined as follows—

Step 1 Determine the available amount in respect of each relevant account.

Step 2 Determine the total of the available amounts in respect of all of the relevant accounts. If that total does not exceed the safeguarded amount, the held amount in relation to each relevant account is nil (and no further steps are to be taken). In any other case, go to Step 3.

Step 3 Match the safeguarded amount against the available amounts in respect of the relevant accounts, taking those accounts in reverse priority order (see sub-paragraph (6)).

Step 4 Match the specified amount against what remains of the available amounts in respect of the relevant accounts by taking each relevant account in priority order (see sub-paragraph (5)) and matching the specified amount (or,

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as the case may be, what remains of the specified amount) against the available amount for each account until either—

- (a) the specified amount has been fully matched, or
- (b) what remains of the available amounts is exhausted.

Where this sub-paragraph applies, “the held amount”, in relation to a relevant account—

- (i) is so much of the amount standing to the credit of the account as is matched against the specified amount under Step 4, and
- (ii) accordingly, is nil if no amount standing to the credit of the account is so matched against the specified amount.

(3) In this paragraph “the available amount” means—

- (a) in the case of an account other than a joint account, the amount standing to the credit of that account at the time the deposit-taker complies with paragraph 6(1), or
- (b) in the case of a joint account, the appropriate fraction of the amount standing to the credit of that account at that time;

so, if no amount stands to the credit of an account at that time, “the available amount” is nil.

(4) In this paragraph “the appropriate fraction”, in relation to a joint account, means—

$$\frac{1}{N}$$

where N is the number of persons who together hold the joint account.

(5) In this paragraph “priority order” means such order as the deposit-taker considers appropriate, but the deposit-taker must ensure—

- (a) that accounts other than joint accounts always have a higher priority than joint accounts, and
- (b) subject to paragraph (a), that any rule set out in the hold notice under paragraph 4(2)(d) is adhered to.

(6) In this paragraph “reverse priority order” means the reverse of the order determined under sub-paragraph (5).

(7) In this paragraph references to an amount standing to the credit of an account are to be read subject to any regulations under paragraph 20(2)(d).

Duty to notify HMRC and account holders etc

8

(1) This paragraph applies where a deposit-taker receives a hold notice.

(2) If the deposit-taker determines that there are one or more affected accounts (see paragraph 6(7)) as a result of the hold notice, the deposit-taker must give HMRC a notice which sets out—

- (a) prescribed information about each of the affected accounts held by P,
- (b) the amount of the held amount in relation to each such account,
- (c) if any of the affected accounts is a joint account held by P and one or more other persons, prescribed information about the other person or persons, and

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- (d) any other prescribed information.
- (3) The notice under sub-paragraph (2) must be given within the period of 5 working days beginning with the day on which the deposit-taker complies with paragraph 6(1).
- (4) If the deposit-taker determines that there are no affected accounts as a result of the hold notice, it must give HMRC a notice which—
- (a) states that this is the case, and
 - (b) sets out any other prescribed information.
- (5) The notice under sub-paragraph (4) must be given within the period of 5 working days beginning with the day on which the deposit-taker makes that determination.
- (6) If HMRC receives a notice under sub-paragraph (2) it must as soon as reasonably practicable—
- (a) give P—
 - (i) a copy of the hold notice, and
 - (ii) a notice under sub-paragraph (7), and
 - (b) in relation to each affected account, give a notice to each person within sub-paragraph (9) explaining that a hold notice has been given in respect of the account, the effect of the hold notice so far as it relates to the account and the effect of paragraphs 10 to 12.
- (7) A notice under this sub-paragraph must comply with the following requirements—
- (a) the notice must specify the particular relevant sums (see paragraph 2) to which the hold notice relates;
 - (b) the details given for that purpose must include a statement, to the best of HMRC's knowledge, of the amount of each of those sums (that is, the unpaid amount) at the date of the notice;
 - (c) the notice must state the total of the amounts stated under paragraph (b) (if more than one), and
 - (d) the notice must state that the notified sum for the purposes of the hold notice (see paragraph 4(4)) is equal to—
 - (i) the total amount specified under paragraph (c) or,
 - (ii) if paragraph (c) is not applicable, the amount specified under paragraph (b) as the amount of the relevant sum to which the hold notice relates.
- (8) In this Part of this Schedule “the notified sum”, in relation to a hold notice, means the amount identified as such (or that is to be identified as such) in the notice under sub-paragraph (7).
- (9) The persons mentioned in sub-paragraph (6)(b) are—
- (a) in the case of a joint account, any holder of the account other than P, and
 - (b) any person (not falling within paragraph (a)) who is an interested third party in relation to the affected account,
- in respect of whom prescribed information has been provided under sub-paragraph (2)(c) or sufficient information has otherwise been given in the notice under sub-paragraph (2) to enable HMRC to give a notice.
- (10) After the deposit-taker has complied with paragraph 6(1), the deposit-taker may, in relation to any affected account, give a notice to—

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- (a) P,
- (b) if the account is a joint account, any other holder of the account, and
- (c) any person (not falling within paragraph (b)) who is an interested third party in relation to the account,

which states that a hold notice has been received by the deposit-taker in respect of the account and the effect of that notice so far as it relates to that account.

- (11) In this Part of this Schedule “interested third party”, in relation to a relevant account, means a person other than P who has a beneficial interest in—
- (a) an amount standing to the credit of the account, or
 - (b) an amount which has been transferred from that account to a suspense account.
- (12) But, in relation to a hold notice, an interest which comes into existence after any arrangements under paragraph 6(3) have been put into place is treated as not being a beneficial interest for the purposes of sub-paragraph (11).

Cancellation or variation of effects of hold notice

- 9 (1) Where a hold notice has been given to a deposit-taker HMRC may, by a notice given to the deposit-taker (a “notice of cancellation or variation”)—
- (a) cancel the hold notice,
 - (b) cancel the effect of the hold notice in relation to one or more accounts, or
 - (c) cancel the effect of the hold notice in relation to any part of the held amount standing to the credit of a particular account or accounts.

In this sub-paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).

- (2) Where HMRC gives a notice under sub-paragraph (1) it must give a copy of that notice to—
- (a) P, and
 - (b) any other person who HMRC considers is affected by the giving of the notice of cancellation or variation and is—
 - (i) a person who holds a relevant account of which P is also a holder and in respect of whom prescribed information is provided under paragraph 8(2)(c), or
 - (ii) an interested third party in relation to a relevant account in respect of whom sufficient information has been given in the notice under paragraph 8(2) to enable HMRC to give a notice.
- (3) Where the deposit-taker is given a notice under sub-paragraph (1), it must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given—
- (a) if the notice is given under sub-paragraph (1)(a), cancel the arrangements made under paragraph 6(3) as a result of the notice, and
 - (b) if the notice is given under sub-paragraph (1)(b) or (c), make such adjustments to those arrangements as are necessary to give effect to the notice.

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Making objections to hold notice

- 10 (1) Where a hold notice is given to a deposit-taker, a person within sub-paragraph (2) may by a notice given to HMRC (a “notice of objection”) object against the hold notice.
- (2) The persons who may object are—
- (a) P,
 - (b) any interested third party in relation to an affected account, and
 - (c) any person (not falling within paragraph (a) or (b)) who is a holder of an affected account which is a joint account,
- but only P may object on the ground in sub-paragraph (3)(a).
- (3) An objection may only be made on one or more of the following grounds—
- (a) that the debts to which the hold notice relates (see paragraph 8(7)(a)) have been wholly or partly paid,
 - (b) that at the time when the hold notice was given, either there was no sum that was a relevant sum in relation to P or P did not hold any account with the deposit-taker,
 - (c) that the hold notice is causing or will cause exceptional hardship to the person making the objection or another person, or
 - (d) that there is an interested third party in relation to one or more of the affected accounts.
- (4) A notice of objection must state the grounds of the objection.
- (5) Objections under this paragraph may only be made within the period of 30 days beginning with—
- (a) in the case of—
 - (i) P, or
 - (ii) a person within sub-paragraph (2)(b) or (c) who has not been given a notice under paragraph 8(6)(b),the day on which a copy of the hold notice is given to P under paragraph 8(6)(a), and
 - (b) in the case of a person given a notice under paragraph 8(6)(b), the day on which that notice is given.
- (6) Sub-paragraph (5) does not apply if HMRC agree to the notice of objection being given after the end of the period mentioned in that sub-paragraph.
- (7) HMRC must agree to a notice of objection being given after the end of that period if the following conditions are met—
- (a) the person seeking to make the objection has made a request in writing to HMRC to agree to the notice of objection being given;
 - (b) HMRC is satisfied that there was reasonable excuse for not giving the notice before the relevant time limit, and
 - (c) HMRC is satisfied that the person complied with paragraph (a) without unreasonable delay after the reasonable excuse ceased.
- (8) If a request of the kind referred to in sub-paragraph (7)(a) is made, HMRC must by a notice inform the person making the request whether or not HMRC agrees to the request.

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- (9) Nothing in Part 5 of TMA 1970 (appeals and other proceedings) applies to an objection under this paragraph.

Consideration of objections

- 11 (1) HMRC must consider any objections made under paragraph 10 within 30 working days of being given the notice of objection.
- (2) Having considered the objections, HMRC must decide whether—
- (a) to cancel the hold notice,
 - (b) to cancel the effect of the hold notice in relation to the held amount, or any part of the held amount, in respect of a particular account or accounts, or
 - (c) to dismiss the objection.
- (3) HMRC must give a notice stating its decision to—
- (a) P,
 - (b) each person other than P who objected, and
 - (c) any other person who HMRC considers is affected by the decision and is—
 - (i) a person who holds a relevant account of which P is also a holder and in respect of whom prescribed information is provided under paragraph 8(2)(c), or
 - (ii) an interested third party in relation to a relevant account in respect of whom sufficient information has been given in the notice under paragraph 8(2) to enable HMRC to give a notice.
- (4) HMRC must, by a notice to the deposit-taker—
- (a) if it makes a decision under sub-paragraph (2)(a), cancel the hold notice;
 - (b) if it makes a decision under sub-paragraph (2)(b), cancel the effect of the hold notice in relation to the accounts or amounts in question.
- (5) HMRC must give each person to whom HMRC is required to give a notice under sub-paragraph (3) a copy of any notice given to the deposit-taker under sub-paragraph (4).
- (6) Where the deposit-taker is given a notice under sub-paragraph (4), it must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given—
- (a) if the notice is given under sub-paragraph (4)(a), cancel the arrangements mentioned in paragraph 6(3), or
 - (b) if the notice is given under sub-paragraph (4)(b), make such adjustments to those arrangements as are necessary to give effect to the notice.
- (7) In this paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).

Appeals

- 12 (1) Where HMRC makes a decision under paragraph (b) or (c) of paragraph 11(2), a person within sub-paragraph (2) may appeal against the hold notice.
- (2) The persons who may appeal are—
- (a) P,
 - (b) any interested third party in relation to an affected account, and

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- (c) any person not falling within paragraph (a) or (b) who is a holder of an affected account which is a joint account.
- (3) An appeal may only be made on one or more of the grounds set out in paragraph 10(3) (and for this purpose the reference in paragraph 10(3)(c) to “the objection” is to be read as a reference to the appeal).
 - (4) An appeal under sub-paragraph (1) must be made—
 - (a) in England and Wales, to the county court, and
 - (b) in Northern Ireland, to a county court.
 - (5) An appeal under this paragraph may only be made within the period of 30 days beginning—
 - (a) in the case of a person given a notice of HMRC's decision under paragraph 11(3), with the day on which that notice is given to that person, and
 - (b) in the case of any person within sub-paragraph (2)(b) or (c) to whom such a notice has not been given, the day on which P is given such a notice.
 - (6) A notice of appeal must state the grounds of appeal.
 - (7) On an appeal under this paragraph, the court may—
 - (a) cancel the hold notice,
 - (b) cancel the effect of the hold notice in relation to the held amount, or any part of the held amount, in respect of a particular account or accounts, or
 - (c) dismiss the appeal.
 - (8) Where the deposit-taker is served with an order made by the court under sub-paragraph (7)(a) or (b), the deposit-taker must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given take such steps as are necessary to give effect to the order.
 - (9) Where an appeal on the ground that the hold notice is causing or will cause the person making the appeal or another person exceptional hardship (or a further appeal following such an appeal) is pending, the court to which the appeal is made may, on an application made by the person who made the appeal—
 - (a) suspend the effect of the hold notice if adequate security is provided in respect of so much of the notified sum as remains unpaid,
 - (b) suspend the effect of the hold notice in relation to a particular account if adequate security is provided in respect of the held amount in relation to that account, or
 - (c) suspend the effect of the hold notice in relation to any part of the held amount standing to the credit of a particular account, if adequate security is provided in respect of that part.
 - (10) In this paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).
 - (11) Nothing in Part 5 of TMA 1970 (appeals and other proceedings) applies to an appeal under this paragraph.

Deduction notice

- 13 (1) If it appears to HMRC that a person in respect of whom a hold notice given to a deposit-taker is in force—

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- (a) has failed to pay a relevant sum, and
- (b) holds an account (or more than one account) with the deposit-taker in respect of which there is a held amount in relation to that sum,

HMRC may give the deposit-taker a deduction notice in respect of that person.

- (2) A “deduction notice” is a notice which—
 - (a) specifies the name of the person concerned,
 - (b) specifies one or more affected accounts held by that person with the deposit-taker, and
 - (c) in relation to each such specified account requires the deposit-taker to deduct and pay a qualifying amount (see sub-paragraph (6)) to the Commissioners by a day specified in the notice.
- (3) Where a deduction notice specifies a particular affected account—
 - (a) the deduction required to be made in relation to that account by virtue of sub-paragraph (2)(c) must be made from the appropriate account, that is to say—
 - (i) if the deposit-taker has by virtue of the hold notice transferred an amount from the specified account into a suspense account, that suspense account, or
 - (ii) otherwise, the specified account, and
 - (b) the deposit-taker must not during the period in which the deduction notice is in force do anything, or permit anything to be done (except in accordance with paragraph (a)) that would reduce the amount standing to the credit of the appropriate account below the balance required for the purpose of making that deduction.
- (4) A deduction notice must explain the effect of sub-paragraph (3)(b) and paragraph 14 (penalties).
- (5) A deduction notice may not be given in respect of an account unless—
 - (a) the period for making an objection under paragraph 10 has expired and either no objections were made or any objection made has been decided or withdrawn, and
 - (b) if objections were made and decided, the period for appealing under paragraph 12 has expired and any appeal or further appeal has been finally determined.
- (6) In this paragraph “qualifying amount”, in relation to an affected account, means an amount not exceeding the held amount in relation to that account (as modified, where applicable, under paragraph 9(3)(b), 11(6)(b) or 12(7)(b)).
- (7) The total of the qualifying amounts specified in the deduction notice must not exceed the unpaid amount of the notified sum (see paragraph 8(8)).
- (8) HMRC must—
 - (a) give a copy of the deduction notice to the person in respect of whom it is given, and
 - (b) in the case of each account in respect of which the notice is given, give a notice to each person within sub-paragraph (9) explaining that a deduction notice has been given in respect of that account and the effect of the deduction notice so far as it relates to that account.
- (9) The persons mentioned in sub-paragraph (8)(b) are—

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- (a) if the account is a joint account, each person other than P who is a holder of the account, and
 - (b) any person (not falling within paragraph (a))—
 - (i) who is an interested third party in relation to the account whom HMRC knows will be affected by the deduction notice, and
 - (ii) about whom HMRC has sufficient information to enable it to give the notice under sub-paragraph (8)(b).
- (10) HMRC may, by a notice given to the deposit-taker, amend or cancel the deduction notice, and where it does so it must—
- (a) give a copy of the notice under this sub-paragraph to the person in respect of whom the deduction notice was given, and
 - (b) in the case of each account affected by the amendment or cancellation, give a notice to each person within sub-paragraph (9) explaining the effect of the amendment or cancellation so far as it relates to that account.
- (11) The deduction notice—
- (a) comes into force at the time it is given to the deposit-taker, and
 - (b) ceases to be in force at the time—
 - (i) the deposit-taker is given a notice cancelling it under sub-paragraph (10), or
 - (ii) the deposit-taker makes the final payment required by virtue of sub-paragraph (2)(c).

Penalties

- 14 (1) This paragraph applies to a deposit-taker who—
- (a) fails to comply with an information notice,
 - (b) fails to comply with a hold notice or a deduction notice,
 - (c) fails to comply with an obligation under paragraph 8(2) in accordance with paragraph 8(3) (obligation to notify HMRC of effects of hold notice),
 - (d) fails to comply with an obligation under paragraph 8(4) in accordance with paragraph 8(5) (obligation to notify HMRC if no affected accounts),
 - (e) fails to comply with an obligation under paragraph 9(3) (obligation to cancel or modify effects of hold notice),
 - (f) fails to comply with an obligation under paragraph 11(6) (obligation to cancel or adjust arrangements to give effect to HMRC's decision of objection), or
 - (g) following receipt of an information notice or hold notice in relation to an account or accounts held with the deposit-taker by a person (“the affected person”), makes a disclosure of information to the affected person or any other person in circumstances where that disclosure is likely to prejudice HMRC's ability to use the provisions of this Part of this Schedule to recover a relevant sum owed by the affected person.
- (2) In sub-paragraph (1)(g), the reference to a disclosure of information does not include the giving of a notice in accordance with paragraph 8(10) to the affected person in respect of a hold notice.
- (3) The deposit-taker is liable to a penalty of £300.

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- (4) If a failure within sub-paragraph (1)(a) to (f) continues after the day on which notice is given under paragraph 15(1) of a penalty in respect of the failure, the deposit-taker is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure continues.
- (5) A failure by a deposit-taker to do anything required to be done within a limited period of time does not give rise to liability to a penalty under this paragraph if the deposit-taker did it within such further time, if any, as HMRC may have allowed.
- (6) Liability to a penalty under this paragraph does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure or (as the case may be) disclosure.
- (7) For the purposes of this paragraph—
 - (a) where the deposit-taker relies on any other person to do anything, that is not a reasonable excuse unless the deposit-taker took reasonable care to avoid the failure or disclosure, and
 - (b) where the deposit-taker had a reasonable excuse for the failure but the excuse has ceased, the deposit-taker is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Assessment of penalty

- 15 (1) Where a deposit-taker becomes liable to a penalty under paragraph 14—
 - (a) HMRC must assess the penalty, and
 - (b) if HMRC does so, it must notify the deposit-taker in writing.
- (2) An assessment of a penalty by virtue of paragraph (a) of paragraph 14(1) must be made within the period of 12 months beginning with the day on which the deposit-taker becomes liable to the penalty.
- (3) An assessment of a penalty under any of paragraphs (b) to (g) of paragraph 14(1) must be made within the period of 12 months beginning with the latest of the following—
 - (a) the day on which the deposit-taker became liable to the penalty,
 - (b) the end of the period in which notice of an appeal in respect of the hold notice could have been given, and
 - (c) if notice of such an appeal is given, the day on which the appeal is finally determined or withdrawn.

Appeal against penalty

- 16 (1) A deposit-taker may appeal against—
 - (a) a decision that a penalty is payable by the deposit-taker under paragraph 14, or
 - (b) a decision as to the amount of such a penalty.
- (2) Notice of an appeal must be given to HMRC before the end of the period of 30 days beginning with the day on which the notification under paragraph 15 was given.
- (3) Notice of an appeal must state the grounds of appeal.

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- (4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal (in accordance with Part 5 of TMA 1970: see below) the tribunal may confirm or cancel the decision.
- (5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—
 - (a) confirm the decision, or
 - (b) substitute for the decision another decision that HMRC had power to make.
- (6) Subject to this paragraph and paragraph 17, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this paragraph as they have effect in relation to an appeal against an assessment to income tax.

Enforcement of penalty

- 17 (1) A penalty under paragraph 14 must be paid—
 - (a) before the end of the period of 30 days beginning with the day on which the notification under paragraph 15 was given, or
 - (b) if notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the day on which the appeal is finally determined or withdrawn.
- (2) A penalty under paragraph 14 may be enforced as if it were income tax charged in an assessment and due and payable.

Protection of deposit-takers acting in good faith

- 18 A deposit-taker is not liable for damages in respect of anything done in good faith for the purposes of complying with a hold notice or a deduction notice.

Power to modify amounts and time limits

- 19 (1) The Commissioners may by regulations amend any of the following provisions by substituting a different amount for the amount for the time being specified there—
 - (a) paragraph 2(2) (requirement that relevant sum is a minimum amount);
 - (b) paragraph 4(6) and (8) (threshold for safeguarded amount);
 - (c) paragraph 14(3) or (4) (level of penalties).
- (2) The Commissioners may by regulations amend any of the following provisions by substituting a different period for the period for the time being specified there—
 - (a) paragraph 3(4) (time limit for complying with information notices);
 - (b) paragraph 6(2) (time limit for complying with hold notices);
 - (c) paragraph 8(3) or (5) (time limit for notifying HMRC of effects of hold notice);
 - (d) paragraph 9(3) (cancellation etc of hold notice: time limit for cancelling or adjusting arrangements);
 - (e) paragraph 10(5) (time limit for making objections);
 - (f) paragraph 11(1) (time limit for consideration of objections);
 - (g) paragraph 11(6) (consideration of objections: time limit for cancelling or adjusting arrangements);
 - (h) paragraph 12(8) (appeals: time limit for compliance with court order).

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Power to make further provision

- 20 (1) The Commissioners may by regulations make provision supplementing this Part of this Schedule.
- (2) The regulations may, in particular, make provision—
- (a) about the manner in which a notice or a copy of a notice is to be given under this Part of this Schedule, or the circumstances in which a notice or a copy of a notice is to be treated as given, for the purposes of this Part of this Schedule;
 - (b) specifying circumstances in which a notice under this Part of this Schedule may not be given;
 - (c) specifying descriptions of account in respect of which a hold notice or deduction notice has no effect;
 - (d) specifying circumstances in which amounts standing to the credit of an account are to be treated as not standing to the credit of the account for the purposes of a hold notice or deduction notice;
 - (e) about fees a deposit-taker may charge a person in respect of whom a notice is given under this Part of this Schedule towards administrative costs in complying with that notice;
 - (f) with respect to priority as between a notice under this Part of this Schedule and—
 - (i) any other such notice, or
 - (ii) any notice or order under any other enactment.

Regulations

- 21 (1) Regulations under this Part of this Schedule may—
- (a) make different provision for different purposes,
 - (b) include supplementary, incidental and consequential provision, or
 - (c) make transitional provision and savings.
- (2) Regulations under this Part of this Schedule are to be made by statutory instrument.
- (3) A statutory instrument containing only regulations within sub-paragraph (4) is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) The regulations within this sub-paragraph are—
- (a) regulations which prescribe information for the purposes of paragraph 3(2) or any provision of paragraph 8,
 - (b) regulations under paragraph 4(10),
 - (c) regulations under paragraph (a), (b), (c), (d), (g) or (h) of paragraph 19(2), or
 - (d) regulations under paragraph 20(2).
- (5) Any other statutory instrument containing regulations under this Part of this Schedule may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Joint accounts

- 22 In this Part of this Schedule a reference to an account held by a person includes a reference to a joint account held by that person and one or more other persons.

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Defined terms

23 (1) In this Part of this Schedule—

“affected account” has the meaning given by paragraph 6(7);

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment;

“deduction notice” has the meaning given by paragraph 13;

“deposit-taker” means a person who may lawfully accept deposits in the United Kingdom in the course of a business (see sub-paragraph (2));

“HMRC” means Her Majesty's Revenue and Customs;

“hold notice” has the meaning given by paragraph 4;

“information notice” has the meaning given by paragraph 3;

“interested third party”, in relation to a relevant account, has the meaning given by paragraph 8(11);

“joint account”, in relation to a person, means an account held by the person and one or more other persons;

“notice” means notice in writing;

“notified sum”, in relation to a hold notice, has the meaning given by paragraph 8(8);

“prescribed” means prescribed by regulations made by the Commissioners;

“relevant account” (in relation to a hold notice) has the meaning given by paragraph 6(6);

“relevant sum”, in relation to a person, has the meaning given by paragraph 2(1);

“the safeguarded amount” (in relation to a hold notice) means the amount specified as the safeguarded amount in the notice (see paragraph 4(2)(c));

“the specified amount” (in relation to a hold notice) means the amount specified as such in the notice (see paragraph 4(2)(b));

“suspense account” has the meaning given by paragraph 6(3)(b)(i);

“the tribunal” means the First-tier Tribunal;

“working day” means a day other than—

- (a) Saturday or Sunday,
- (b) Christmas Eve, Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or Northern Ireland.

(2) The definition of “deposit-taker” in sub-paragraph (1) is to be read with—

- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities),
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

Extent

24 This Part of this Schedule extends to England and Wales and Northern Ireland.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 2015, PART 1.