

## SCHEDULES

### SCHEDULE 6

#### AGGREGATES LEVY: EVASION, MISDECLARATION AND NEGLECT

#### PART 2

#### CIVIL PENALTIES

##### *Liability of directors etc. for civil penalties*

- 8 (1) Where it appears to the Commissioners—
- (a) that a body corporate is liable to a penalty under paragraph 7 above, and
  - (b) that the conduct giving rise to that penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a “named officer”),
- the Commissioners may serve a notice under this paragraph on the body corporate and on the named officer.
- (2) A notice under this paragraph shall state—
- (a) the amount of the penalty referred to in sub-paragraph (1)(a) above (“the basic penalty”); and
  - (b) that the Commissioners propose, in accordance with this paragraph, to recover from the named officer such portion of the basic penalty (which may be the whole of it) as is specified in the notice.
- (3) Where a notice is served under this paragraph, the portion of the basic penalty specified in the notice shall be recoverable from the named officer as if he were personally liable under paragraph 7 above to a penalty which corresponds to that portion.
- (4) Where a notice is served under this paragraph—
- (a) the amount which may be assessed under Schedule 10 to this Act as the amount due by way of penalty from the body corporate shall be only so much (if any) of the basic penalty as is not assessed on and notified to a named officer; and
  - (b) the body corporate shall be treated as discharged from liability for so much of the basic penalty as is so assessed and notified.
- (5) Subject to the following provisions of this paragraph, the giving of a notice under this paragraph as such shall not be a decision which may be reviewed under section 40 of this Act.
- (6) Where a body corporate is assessed as mentioned in sub-paragraph (4)(a) above, the decisions of the Commissioners that may be reviewed in accordance with section 40 of this Act shall include their decision—

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*Status: This is the original version (as it was originally enacted).*

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- (a) as to the liability of the body corporate to a penalty; and
  - (b) as to the amount of the basic penalty that is specified in the assessment;
- and sections 41 and 42 of this Act shall apply accordingly.
- (7) Where an assessment is made on a named officer by virtue of this paragraph, the decisions which may be reviewed under section 40 of this Act at the request of the named officer shall include—
- (a) the Commissioners' decisions in the case of the body corporate as to the matters mentioned in sub-paragraph (6)(a) and (b) above;
  - (b) their decision that the conduct of the body corporate referred to in sub-paragraph (1)(b) above is, in whole or in part, attributable to the dishonesty of the named officer; and
  - (c) their decision as to the portion of the penalty which the Commissioners propose to recover from him;
- and sections 41 and 42 of this Act shall apply accordingly.
- (8) In this paragraph a “managing officer”, in relation to a body corporate, means—
- (a) any manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity or as a director.
- (9) Where the affairs of a body corporate are managed by its members, this paragraph shall apply in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.