
STATUTORY INSTRUMENTS

2007 No. 785

The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007

PART 2

Provision corresponding to Part 7 of the Finance Act 2004

4.—(1) This Part applies to—

- (a) notifiable contribution arrangements, and
- (b) notifiable contribution proposals

which fall within any description prescribed by the Tax Avoidance Schemes (Prescribed Description of Arrangements) Regulations 2006(1) as modified by these Regulations.

(2) The Table below shows which of the following regulations corresponds to which provision of Part 7.

<i>Section within Part 7</i>	<i>Corresponding provision of these Regulations</i>
Section 306 (meaning of “notifiable arrangements” and “notifiable proposals”).	Regulation 5
Section 307 (meaning of “promoter”)	Regulation 6
Section 308 (duties of promoter)	Regulation 7
Section 309 (duty of person dealing with promoter outside the United Kingdom)	Regulation 8
Section 310 (duty of parties to notifiable arrangements not involving promoter)	Regulation 9
Section 311 (arrangements to be given reference number)	Regulation 10
Section 312 (duty of promoter to notify client of number)	Regulation 11
Section 313 (duty of parties to notifiable arrangements to notify Board of number etc)	Regulation 12
Section 316 (information to be provided in form and manner specified by the Commissioners)	Regulation 13

Meaning of “notifiable contribution arrangements and “notifiable contribution proposal”

5. In this Part—

“notifiable contribution arrangements” means any arrangements which —

- (a) enable, or might be expected to enable, any person to obtain an advantage in relation to a contribution, and
- (b) are such that the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that advantage;

“notifiable contribution proposal” means a proposal for arrangements which, if entered into, would be notifiable contribution arrangements (whether the proposal relates to a particular person or to any person who may seek to take advantage of it)(2).

Meaning of promoter

6.—(1) For the purposes of this Part a person is a promoter—

- (a) in relation to a notifiable contribution proposal if, in the course of a relevant business—
 - (i) he is to any extent responsible for the design of the proposed arrangements, or
 - (ii) he makes the notifiable contribution proposal available for implementation by other persons; and
- (b) in relation to notifiable contribution arrangements, if he is by virtue of sub-paragraph (a)
 - (i) a promoter in relation to a notifiable contribution proposal which is implemented by those arrangements or if, in the course of a relevant business, he is to any extent responsible for—
 - (i) the design of the arrangements, or
 - (ii) the organisation or management of the arrangements.

(2) In this regulation “relevant business” means any trade, profession or business which—

- (a) involves the provision to other persons of services relating to national insurance contributions, or
- (b) is carried on by a bank, as defined by section 840A of the Taxes Act 1988(3), or by a securities house, as defined by section 209A(4)(4) of that Act.

(3) For the purposes of this regulation anything done by a company is to be taken to be done in the course of a relevant business if it is done for the purposes of a relevant business falling within paragraph (2)(b) carried on by another company which is a member of the same group.

(4) Section 170 of the Taxation of Chargeable Gains Act 1992(5) has effect for determining for the purposes of paragraph (3) whether two companies are members of the same group, but as if in that section—

- (a) for each of the references to a 75% subsidiary there were substituted a reference to a 51% subsidiary, and
- (b) subsection (3)(b) and subsections (6) to (8) were omitted.

(2) The definitions of “notifiable contribution arrangements” and “notifiable contribution proposal” are set out in section 132A(3) of the Social Security Administration Act 1992.

(3) 1988 c.1. Section 840A was inserted by paragraph 1(1) of Schedule 37 to the Finance Act 1996 (c. 8) and amended by sections 281 and 284 of, and paragraph 36 of Schedule 35 to, the Finance Act 2004 and articles 2(1) and (2), 13 and 46 of S.I. 2001/3629.

(4) Section 209A was inserted by section 102(2) and (3) of the Finance Act 2002 (c. 23).

(5) 1992 c.12.

(5) A person is not to be treated as a promoter for the purposes of this Part by reason of anything done in circumstances prescribed by the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004⁽⁶⁾ as modified by these Regulations

Duties of promoter

7.—(1) The promoter must, within the prescribed period after the relevant date, provide the Commissioners with the information required by the Information Regulations relating to any notifiable contribution proposal.

(2) In paragraph (1) “the relevant date” means the earlier of the following—

- (a) the date on which the promoter makes a notifiable contribution proposal available for implementation by any other person, or
- (b) the date on which the promoter first becomes aware of any transaction forming part of notifiable contribution arrangements implementing the notifiable contribution proposal.

(3) The promoter must, within the period prescribed by the Information Regulations after the date on which he first becomes aware of any transaction forming part of any notifiable contribution arrangements, provide the Commissioners with prescribed information relating to those arrangements, unless those arrangements implement a proposal in respect of which notice has been given under paragraph (1).

(4) Where two or more persons are promoters in relation to the same notifiable contribution proposal or notifiable contribution arrangements, compliance by any of them with paragraph (1) or (3) discharges the duty under either of those paragraphs of the other or others.

(5) Where a person is a promoter in relation to two or more notifiable contribution proposals or sets of notifiable contribution arrangements which are substantially the same (whether they relate to the same parties or different parties), he need not provide information under paragraph (1) or (3) if he has already provided information under either of those paragraphs in relation to any of the other proposals or arrangements.

Duty of person dealing with promoter outside United Kingdom

8.—(1) Any person (“the client”) who enters into any transaction forming part of any notifiable contribution arrangements in relation to which—

- (a) a promoter is resident outside the United Kingdom, and
- (b) no promoter is resident in the United Kingdom,

must provide the Commissioners with the prescribed information relating to the notifiable contribution arrangements within the prescribed period.

(2) Compliance with regulation 7(1) by any promoter in relation to the notifiable contribution arrangements discharges the duty of the client under paragraph (1).

Duty of parties to notifiable contribution arrangements not involving promoter

9. Any person who enters into any transaction forming part of notifiable contribution arrangements as respects which neither he nor any other person in the United Kingdom is liable to comply with regulation 7 or regulation 8 must at the prescribed time provide the Commissioners with prescribed information relating to the notifiable contribution arrangements.

(6) [S.I. 2004/1865](#) as amended by regulation 2 of [S.I. 2004/2613](#).

Arrangements to be given reference number

10.—(1) Where a person complies with regulation 7(1) or (3), regulation 8(1) or 9 in relation to any notifiable contribution proposal or arrangements, the Commissioners may within 30 days—

- (a) allocate a reference number in relation to those proposals or arrangements, and
- (b) if they do so, notify the person of that number,

except that where the arrangements or proposals concern both national insurance contributions and tax, the Commissioners shall allocate a single reference number in respect of both matters.

(2) The allocation of a reference number to any notifiable contribution arrangements (or proposed notifiable contribution arrangements) is not to be regarded as constituting any indication by the Commissioners that the arrangements could as a matter of law result in the obtaining by any person of an advantage in relation to a contribution.

Duty of promoter to notify client of number

11.—(1) Any promoter who is providing services to any person (“the client”) in connection with notifiable contribution arrangements must, within 30 days after the relevant date, provide the client with prescribed information relating to any reference number that has been notified to the promoter by the Commissioners in accordance with regulation 10 or, where the arrangements are, or are substantially the same as, notifiable arrangements, section 311—

- (a) in relation to those arrangements, or
- (b) in relation to arrangements which are substantially the same as those arrangements (whether made between the same parties or different parties).

(2) In paragraph (1) “the relevant date” means—

- (a) the date on which the promoter first becomes aware of any transaction forming part of the notifiable contribution arrangements, or
- (b) if later, the date on which a reference number is first notified to the promoter under regulation 10.

Duty of parties to notifiable contribution arrangements to notify the Commissioners of number, etc.

12.—(1) Any person who is a party to any notifiable contribution arrangements must provide the Commissioners with the prescribed information relating to—

- (a) any reference number notified to him under regulation 10 by the Commissioners or under regulation 11 by the promoter, and
- (b) the time when he obtains or expects to obtain by virtue of the arrangements an advantage in relation to any contribution.

(2) A person is not liable to a penalty under—

- (a) section 98A of the Taxes Management Act 1970(7)(special penalties in the case of certain returns); or
- (b) paragraph 7B(2)(h) of Schedule 1 to the Social Security Contributions and Benefits Act 1992,

by reason of any failure to include in any return or account any reference number or other information required by virtue of regulation 8 of the Information Regulations (but see regulation 14 for the penalty for failure to comply with this regulation).

(7) 1970 c.9. This section applies by virtue of paragraph 7(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c.4).

Information to be provided in form and manner specified by Commissioners

13. The information required by regulations 7(1) or (3), 8(1), 9, 11(1) or 12(1) must be provided in a form and manner specified by the Commissioners.