
STATUTORY INSTRUMENTS

2007 No. 785

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

PART 3

Provisions corresponding to section 98C of the Taxes Management Act 1970 and modifications of related provisions

Notification under Part 2

14.—(1) A person who fails to comply with any of the provisions of regulations 4 to 12 mentioned in paragraph (2) below shall be liable—

- (a) to a penalty not exceeding £5,000, and
- (b) if the failure continues after a penalty is imposed under sub-paragraph (a) above, to a further penalty or penalties not exceeding £600 for each day on which the failure continues after the day on which the penalty under sub-paragraph (a) was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

This is subject to paragraph (6).

(2) Those provisions are—

- (a) regulation 7(1) and (3) (duty of promoter in relation to notifiable contribution proposals and notifiable contribution arrangements),
- (b) regulation 8(1) (duty of person dealing with promoter outside United Kingdom),
- (c) regulation 9 (duty of parties to notifiable contribution arrangements not involving promoter), or
- (d) regulation 11(1) (duty of promoter to notify client of reference number).

(3) A person who fails to comply with regulation 12(1) (duty of parties to notifiable contribution arrangements to notify the Commissioners of number, etc.) shall be liable to a penalty of the relevant sum.

This is subject to paragraph (6).

(4) In paragraph (3) “the relevant sum” means—

- (a) in relation to a person not falling within sub-paragraph (b) or (c) below, £100 in respect of each scheme to which the failure relates,
- (b) in relation to a person who has previously failed to comply with regulation 12 on one (and only one) occasion during the period of 36 months ending with the date on which the current failure to comply with that provision began, £500 in respect of each scheme to which the current failure relates (whether or not the same as the scheme to which the previous failure relates), or
- (c) in relation to a person who has previously failed to comply with regulation 12 on two or more occasions during the period of 36 months ending with the date on which the current

failure to comply with that provision began, £1,000 in respect of each scheme to which the current failure relates (whether or not the same as the schemes to which any of the previous failures relates).

(5) In paragraph (4) above “scheme” means any notifiable contribution arrangements.

(6) Where the notifiable contribution arrangement or notifiable contribution proposal is, or is substantially the same as, a notifiable arrangement or a notifiable proposal under Part 7 in relation to which a penalty has been imposed under section 98C of the Taxes Management Act 1970⁽¹⁾ in respect of a failure to comply with the provisions of Part 7, this regulation shall not apply to impose a penalty in respect of the failure to comply with the corresponding provision of these Regulations.

Modification of Part 10 of the Taxes Management Act 1970

15.—(1) Part 10 of the Taxes Management Act 1970 so far as it relates to a penalty under section 98C of that Act shall apply in relation to a penalty under regulation 14 with the following modifications.

(2) In section 100 (determination of penalties by officer of Board) for subsection (2)(f) (penalties to which subsection (1) of the section does not apply)⁽²⁾ substitute—

“(f) regulation 14(1)(a) of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007.”.

(3) In section 100C⁽³⁾ (penalty proceedings before Commissioners) for subsection (1A) substitute—

“(1A) In its application to a penalty under regulation 14(1)(a) of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007, subsection (1) above has effect with the omission of the words “General or”.”.

⁽¹⁾ Section 98C was inserted by sections 315(1) and 319 of the Finance Act 2004.

⁽²⁾ Section 100 was substituted by section 167 of the Finance Act 1989 (c.26) and paragraph (2)(f) was inserted by sections 315(2) and 319 of the Finance Act 2004.

⁽³⁾ Section 100C was inserted by section 167 of the Finance Act 1989 (c.26) and subsection (1A) of that section was inserted by sections 315(3) and 319 of the Finance Act 2004(c. 12).