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STATUTORY INSTRUMENTS

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**2009 No. 612**

**SOCIAL SECURITY**

**The National Insurance Contributions (Application of Part 7 of  
the Finance Act 2004) (Amendment) (No. 2) Regulations 2009**

<i>Made</i>	- - - -	<i>11th March 2009</i>
<i>Laid before Parliament</i>		<i>11th March 2009</i>
<i>Coming into force</i>	- -	<i>1st April 2009</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 132A(1) and 189(4) of the [Social Security Administration Act 1992\(1\)](#):

**Citation and Commencement**

1.—(1) These Regulations may be cited as the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) (No. 2) Regulations 2009 and shall come into force on 1st April 2009.

(2) These Regulations have effect in relation to reference numbers notified to a person—

- (a) under regulations 10, 11 or 11A of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007(2), or
- (b) under sections 311, 312 or 312A of the Finance Act 2004(3),

on or after 1st April 2009 where that person has a duty under regulation 12 of those Regulations.

**Amendments to the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007**

2.—(1) Amend the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007 as follows.

(2) In regulation 17 (the Tax Avoidance Schemes (Information) Regulations 2004)(4) for paragraph (7) substitute—

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(1) [1992 c. 5](#); section 132A was inserted by section 7(2) of the National Insurance Contributions Act 2006 (c. 10).  
(2) [S.I. 2007/785](#); regulations 10 and 11 were amended and regulation 11A inserted by [S.I. 2008/2678](#).  
(3) [2004 c. 12](#); sections 311 and 312 were amended and section 312A inserted by paragraphs 3 and 4 of Schedule 38 to the Finance Act 2008 (c. 9).  
(4) Regulation 17 was amended by [S.I. 2008/2678](#).

“(7) For regulation 8 (prescribed information under section 313: timing and manner of delivery) substitute—

**“Prescribed information under regulation 12 of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007: timing and manner of delivery**

8.—(1) For the purposes of regulation 12 of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007 (duty of parties to notifiable contribution arrangements to notify the Commissioners of number, etc) the prescribed information is—

- (a) the reference number allocated by the Commissioners under regulation 10 to the notifiable contribution arrangements or notifiable contribution proposal;
- (b) the earnings period in which the person making the notification expects an advantage to be obtained; and
- (c) the employer’s name, address and Unique Taxpayer Reference (UTR).

(2) The prescribed information shall be provided to the Commissioners in such form and manner as they may specify.

(3) Unless paragraph (4) applies, the prescribed time at which a person who is a party to notifiable contribution arrangements must provide the Commissioners with information under regulation 12 is any time before the date on which the return under paragraph 22(1) of Schedule 4 to the Social Security (Contributions) Regulations 2001<sup>(5)</sup> is or would be due—

- (a) for the year in which the employer first enters into a transaction forming part of the notifiable arrangements; and
- (b) for each subsequent year until the advantage ceases to apply to any person.

(4) Where the advantage which is expected to arise from the notifiable contribution arrangements relates to Class 1A contributions only, and the transactions which comprise the notifiable contribution arrangements do not give rise to an advantage in relation to tax, the prescribed time is any time before the date on which the return under regulation 80(1) of the Social Security (Contributions) Regulations 2001<sup>(6)</sup> is or would be due—

- (a) for the year in which the employer first enters into a transaction forming part of the notifiable arrangements; and
- (b) for each subsequent year until the advantage ceases to apply to any person.

In this paragraph the term “an advantage in relation to tax” shall be construed in accordance with section 318(1).”.”.

*Dave Watts  
Frank Roy*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

11th March 2009

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<sup>(5)</sup> S.I. 2001/1004; paragraph (1) was amended by S.I. 2003/93.

<sup>(6)</sup> Regulation 80(1) was amended by S.I. 2004/770.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations amend the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007 to substitute regulation 17(7). This regulation substitutes regulation 8 of the Tax Avoidance Schemes (Information) Regulations 2004 with a regulation that applies to National Insurance contributions and corresponds to the amendments made to regulation 8 of the Tax Avoidance Schemes (Information) Regulations 2004 by the Tax Avoidance Schemes (Information) (Amendment) Regulations 2009.

This regulation is amended to change the period in relation to which a person who is party to notifiable arrangements first has to notify the reference number to the Commissioners of Her Majesty's Revenue and Customs.

An Impact Assessment has been prepared covering the package of measures which includes provisions in the Finance Act 2008, these regulations and the corresponding tax regulations. It is available at <http://www.hmrc.gov.uk/ria/users-disclosed-tax-avoid-schemes.pdf>.