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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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## SCHEDULES

### SCHEDULE 20

#### PENALTIES FOR ENABLERS OF OFFSHORE TAX EVASION OR NON-COMPLIANCE

##### PART 1

##### LIABILITY FOR PENALTY

###### *Liability for penalty*

- 1 (1) A penalty is payable by a person (P) who has enabled another person (Q) to carry out offshore tax evasion or non-compliance, where conditions A and B are met.
- (2) For the purposes of this Schedule—
- (a) Q carries out “offshore tax evasion or non-compliance” by—
- (i) committing a relevant offence, or
- (ii) engaging in conduct that makes Q liable (if the applicable conditions are met) to a relevant civil penalty,
- where the tax at stake is income tax, capital gains tax or inheritance tax, and
- (b) P “has enabled” Q to carry out offshore tax evasion or non-compliance if P has encouraged, assisted or otherwise facilitated conduct by Q that constitutes offshore tax evasion or non-compliance.
- (3) The relevant offences are—
- (a) an offence of cheating the public revenue involving offshore activity, or
- (b) an offence under section 106A of TMA 1970 (fraudulent evasion of income tax) involving offshore activity,
- (c) an offence under section 106B, 106C or 106D of TMA 1970 (offences relating to certain failures to comply with section 7 or 8 by a taxpayer chargeable to income tax or capital gains tax on or by reference to offshore income, assets or liabilities).
- (4) The relevant civil penalties are—
- (a) a penalty under paragraph 1 of Schedule 24 to FA 2007 (errors in taxpayer's document) involving an offshore matter or an offshore transfer (within the meaning of that Schedule),
- (b) a penalty under paragraph 1 of Schedule 41 to FA 2008 (failure to notify etc) in relation to a failure to comply with section 7(1) of TMA 1970 involving offshore activity,
- (c) a penalty under paragraph 6 of Schedule 55 to FA 2009 (failure to make return for 12 months) involving offshore activity,
- (d) a penalty under paragraph 1 of Schedule 21 to FA 2015 (penalties in connection with relevant offshore asset moves).

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- (5) Condition A is that P knew when P's actions were carried out that they enabled, or were likely to enable, Q to carry out offshore tax evasion or non-compliance.
- (6) Condition B is that—
- (a) in the case of offshore tax evasion or non-compliance consisting of the commission of a relevant offence, Q has been convicted of the offence and the conviction is final, or
  - (b) in the case of offshore tax evasion or non-compliance consisting of conduct that makes Q liable to a relevant penalty—
    - (i) Q has been found to be liable to such a penalty, assessed and notified, and the penalty is final, or
    - (ii) a contract has been made between the Commissioners for Her Majesty's Revenue and Customs and Q under which the Commissioners undertake not to assess the penalty or (if it has been assessed) not to take proceedings to recover it.
- (7) For the purposes of sub-paragraph (6)(a)—
- (a) “convicted of the offence” means convicted of the full offence (and not for example of an attempt), and
  - (b) a conviction becomes final when the time allowed for bringing an appeal against it expires or, if later, when any appeal against conviction has been determined.
- (8) For the purposes of sub-paragraph (6)(b)(i) a penalty becomes final when the time allowed for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is determined.
- (9) It is immaterial for the purposes of condition B that—
- (a) any offence of which Q was convicted, or
  - (b) any penalty for which Q was found to be liable,
- relates also to other tax evasion or non-compliance by Q.
- (10) In this Schedule “other tax evasion or non-compliance by Q” means conduct by Q that—
- (a) constitutes an offence of cheating the public revenue or an offence of fraudulent evasion of tax, or
  - (b) makes Q liable to a penalty under any provision of the Taxes Acts,
- but does not constitute offshore tax evasion or non-compliance.
- (11) Nothing in condition B affects the law of evidence as to the relevance if any of a conviction, assessment of a penalty or contract mentioned in sub-paragraph (6) for the purpose of proving that condition A is met in relation to P.
- (12) In this Schedule “conduct” includes a failure to act.

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**Commencement Information**

**II** Sch. 20 para. 1 in force at 1.1.2017 by S.I. 2016/1249, reg. 2

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)