STATUTORY INSTRUMENTS

# 2013 No. 2600

# SOCIAL SECURITY

## The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) Regulations 2013

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| *Made - - - -* | *10th October 2013* |
| *Laid before Parliament* | *11th October 2013* |
| *Coming into force - -* | *4th November 2013* |

The Treasury make the following Regulations in exercise of the powers conferred by sections 132A(1) and 189(4), (5) and (6) of the Social Security Administration Act 1992(**a**).

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) Regulations 2013 and come into force on 4th November 2013.

(2) These Regulations do not have effect—

(a) for the purposes of regulation 8(1) of the NICs Regulations (duties of promoter relating to any notifiable contribution proposal), if the relevant date falls before 4th November 2013;

(b) for the purposes of regulation 8(3) of the NICs Regulations (duties of promoter relating to any notifiable contribution arrangements), if the date on which the promoter first becomes aware of any transaction forming part of notifiable contribution arrangements falls before 4th November 2013.

(3) In this regulation "relevant date" has the meaning given by regulation 8(2) of the NICs Regulations.

(4) In this regulation and regulation 2 "NICs Regulations" means the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012(**b**).

**Amendments to the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012**

**2.** The NICs Regulations are amended as follows.

**3.** In the Table at regulation 5(2)(**c**)—

(a) after the row relating to section 312A (duty of client to notify parties of number) insert—

(**a**) 1992 c. 5. Section 132A was inserted by section 7(1) and (2) of the National Insurance Contributions Act 2006 (c. 10). Section 189(4) was amended by Part 1 of the Schedule to the Public Bodies (Abolition of the Disability Living Allowance Advisory Board) Order 2013 (S.I. 2013/252). Section 189(4) and (5) was amended by Schedules 7 and 8 to the Social Security Act 1998 (c. 14).

(**b**) S.I. 2012/1868.

(**c**) Sections 312B and 313ZB of the Finance Act 2004 (c. 12) were inserted by section 223 of the Finance Act 2013 (c. 29). Regulations 14A and 16A of S.I. 2012/1868 are inserted by regulations 4 and 5 respectively of this instrument.

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| "Section 312B (duty of client to provide information to promoter) | Regulation 14A"; and |

(b) after the row relating to section 313ZA (duty of promoter to provide details of clients) insert—

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| "Section 313ZB (enquiry following disclosure of client details) | Regulation 16A.". |

**4.** After regulation 14 insert—

"**Duty of client to provide information to promoter**

**14A.**—(1) This regulation applies where a person who is a promoter in relation to notifiable contribution arrangements has provided a person ("the client") with information under regulation 13(2) (duty of promoter to notify client of reference number).

(2) The client must, within the prescribed period, provide the promoter with the prescribed information relating to the client.".

**5.** After regulation 16 insert—

"**Enquiry following disclosure of client details**

**16A.**—(1) This regulation applies where—

(a) a person who is a promoter in relation to notifiable contribution arrangements has provided HMRC with information in relation to a person ("the client") under regulation 16(3) (duty to provide details of clients); and

(b) HMRC suspect that a person other than the client is or is likely to be a party to the arrangements.

(2) HMRC may by written notice require the promoter to provide the prescribed information in relation to any person other than the client who the promoter might reasonably be expected to know is or is likely to be a party to the arrangements.

(3) The promoter must comply with a requirement under or by virtue of paragraph (2) within—

(a) the prescribed period; or

(b) such longer period as HMRC may direct.".

**6.** In regulation 22(2)—

(a) after sub-paragraph (e) insert—

"(ea) regulation 14A(2) (duty of client to provide information to promoter),"; and

(b) after sub-paragraph (f) insert—

"(fa)regulation 16A (duty of promoter to provide further information),".

**7.** In regulation 25—

(a) at paragraph (3)(b) for "sub-paragraphs (f) to (h)" substitute "sub-paragraphs (f) to (g)"; and

(b) at paragraph (6) for "regulations 12 to 17A" substitute "regulations 12 to 17".

**8.** After regulation 26(2)(a) insert—

"(aa) in sub-paragraph (a) of the definition of "the filing date" omit "or in the case of inheritance tax the last day of the period mentioned in regulation 9(5)(b)".

**9.** In regulation 26(3)(b) for ", the IHT Arrangements Regulations or the SDLT Arrangements Regulations" substitute ", the ATED Arrangements Regulations, the IHT Arrangements Regulations or the SDLT Arrangements Regulations".

**10.** In regulation 26(3)(c) after "the definitions of" insert ""the ATED Arrangements Regulations",".

**11.** After regulation 26(6) insert—

"(6A) In regulation 8A (prescribed information under section 312B: information and timing) for "notifiable arrangements" wherever it occurs substitute "notifiable contribution arrangements".".

**12.** After regulation 26(10) insert—

"(10A) In regulation 13A(1)(b)(i) (prescribed information under section 313ZB: information and timing) for "a tax advantage" substitute "an advantage".".

*David Evennett*
*Anne Milton*
10th October 2013 Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

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

These Regulations make changes to the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (S.I. 2012/1868) which apply, or correspond to, changes to Part 7 of the Finance Act 2004 (c. 12) ("Part 7"), or changes to instruments made under Part 7.

Regulations 3 to 6 introduce new disclosure obligations for promoters and users of national insurance contribution avoidance schemes. Under these provisions, if HMRC suspects a client list provided by a promoter is incomplete, they may require the promoter to provide further information. The provisions also introduce an obligation on users to provide prescribed information to promoters, which may then be passed on to HMRC by the promoters.

Regulations 7 to 12 make consequential amendments required following the automatic incorporation, by regulations 25 and 26 of S.I. 2012/1868, of changes made to S.I. 2006/1543 and S.I. 2012/1836.

Regulation 1(2) ensures that promoters are not liable to pay a penalty for a failure to disclose proposals or arrangements which relate to the period before the commencement of these Regulations, but which become notifiable as a consequence of these Regulations.

A Tax Information and Impact Note covering this instrument was published on 11th December 2012 and is available on the HMRC website at http://www.hmrc.gov.uk/tiin/2012/tiin8003.htm. It remains an accurate summary of the impacts that apply to this instrument.

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