
*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1976, SCHEDULE 6. (See end of Document for details)*

SCHEDULES

SCHEDULE 6

Section 57.

SECTIONS TO BE SUBSTITUTED FOR SECTION 20 OF ^{M1}TAXES MANAGEMENT ACT 1970

Modifications etc. (not altering text)

- C1** The text of Sch. 6 and part of the text of Sch. 9 paras. 1, 5, 11, Sch. 15 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991
-

Marginal Citations

- M1** 1970 c. 9.

Power to call for documents of taxpayer and others.

- “20 (1) Subject to this section, an inspector may by notice in writing require a person to deliver to him such documents as are in the person’s possession or power and as (in the inspector’s reasonable opinion) contain, or may contain, information relevant to any tax liability to which the person is or may be subject, or to the amount of any such liability.
- (2) Subject to this section, the Board may by notice in writing require a person to deliver, to a named officer of theirs, such documents as are in the person’s possession or power and as (in the Board’s reasonable opinion) contain, or may contain, information relevant to any tax liability to which he is or may be subject, or to the amount of any such liability.
- (3) Subject to this section, an inspector may, for the purpose of enquiring into the tax liability of any person (“the taxpayer”), by notice in writing require any of the persons who in relation to the taxpayer are subject to this subsection to deliver to the inspector or, if the person to whom the notice is given so elects, to make available for inspection by a named officer of the Board, such documents as are in his possession or power and as (in the inspector’s reasonable opinion) contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or to the amount of any such liability.
- (4) The persons so subject are—
- (a) the taxpayer’s spouse, and any son or daughter of his;
 - (b) in so far as the inspector’s enquiries relate to liability of the taxpayer in respect of income, profits or gains that were, or may have been, derived from—
 - (i) any business (past or present) carried on by the taxpayer or his spouse,
or
 - (ii) any business (past or present) with whose management either of them was concerned at a material time,
 any person who is carrying on a business, or was doing so at a material time, and any company whether carrying on a business or not.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1976, SCHEDULE 6. (See end of Document for details)*

- (5) For the purposes of subsection (4) above, every director of a company is to be taken as being concerned with the management of any business carried on by the company; and a material time is any time which (in the inspector's reasonable opinion) is, or may have been, material in the ascertainment of any past or present tax liability of the taxpayer.
- (6) The persons who may be treated as "the taxpayer" under subsections (3) and (4) include a company which has ceased to exist and an individual who has died; and in relation to such an individual the references in subsection (4) to the spouse are then instead to the widow or widower (the circumstance that she or he may have re-married being immaterial for the purposes of those subsections).
- (7) Notices under this section are not to be given by an inspector unless he is authorised by the Board for its purposes; and—
- (a) a notice is not to be given by him except with the consent of a General or Special Commissioner; and
 - (b) the Commissioner is to give his consent only on being satisfied that in all the circumstances the inspector is justified in proceeding under this section.
- (8) The references in subsections (1), (2) and (3) above to documents are to those specified or described in the notice in question; and—
- (a) the notice shall require them to be delivered or (as the case may be) made available within such time as may be there specified; and
 - (b) the person to whom they are delivered or made available may take copies of, or extracts from them;
- and a notice under subsection (3) shall name the taxpayer with whose liability the inspector (or, as the case may be, the Board) is concerned.
- (9) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section.

Power to call for papers of tax accountant.

- 20A(1) Where after the passing of the Finance Act 1976 a person—
- (a) is convicted of an offence in relation to tax (whenever committed) by or before any court in the United Kingdom; or
 - (b) has awarded against him a penalty incurred by him (whether before or after the passing of that Act) under section 99 of this Act,

and he has stood in relation to others as tax accountant, an inspector authorised by the Board for the purpose of this section may by notice in writing require the person to deliver to him such documents as are in his possession or power and as (in the inspector's reasonable opinion) contain information relevant to any tax liability to which any client of his is or has been, or may be or have been, subject, or to the amount of any such liability.

For this purpose section 20(8) above applies, substituting "the client" for "the taxpayer."

- (2) Subsection (1) above does not have effect in relation to a person convicted or penalised as there mentioned for so long as an appeal is pending against the conviction or award; and—
- (a) for this purpose an appeal is to be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing it or, in

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1976, SCHEDULE 6. (See end of Document for details)*

- the case of a conviction in Scotland, until the expiration of 28 days from the date of conviction; and
- (b) references here to appeal include further appeal but, in relation to the award of a penalty, do not include appeal against the amount of the penalty.
- (3) A notice is not to be given to any person under this section unless with the consent of the appropriate judicial authority; and that authority is to give his consent only on being satisfied that in all the circumstances the inspector is justified in so proceeding.
- (4) The power to give a notice under this section, by reference to a person's conviction or the award against him of a penalty, ceases at the expiration of the period of 12 months beginning with the date on which it was first exercisable in his case by virtue of that conviction or award.
- (5) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section.

Restrictions on powers under ss. 20 and 20A.

- 20B (1) Before a notice is given to a person by an inspector under section 20(1) or (3), or under section 20A, the person must have been given a reasonable opportunity to deliver (or, in the case of section 20(3), to deliver or make available) the documents in question; and the inspector must not apply for consent under section 20(7) or, as the case may be, section 20A(3), until the person has been given that opportunity.
- (2) A notice under section 20(1) does not oblige a person to deliver documents relating to the conduct of any pending appeal by him; a notice under section 20(3) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer; and a notice under section 20A does not oblige a person to deliver documents relating to the conduct of a pending appeal by the client.
- “Appeal” means appeal relating to tax.
- (3) An inspector cannot under section 20(1) or (3), or under section 20A(1), give notice to a barrister, advocate or solicitor, but the notice must in any such case be given (if at all) by the Board; and accordingly in relation to a barrister, advocate or solicitor for references in section 20(3) and (4) and section 20A to the inspector there are substituted references to the Board.
- (4) To comply with a notice under section 20(1) or section 20A(1), and as an alternative to delivering documents to comply with a notice under section 20(3), copies of documents may be delivered instead of the originals; but—
- (a) the copies must be photographic or otherwise by way of facsimile; and
- (b) if so required by the inspector (or, as the case may be, the Board) in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).
- (5) A notice under section 20(3), if given to a person who is carrying on a business or was doing so at any time material to the subject matter of the inspector's (or the Board's) enquiries, or if given to a company (whether carrying on a business or not), does not oblige the person or company to deliver or make available any document the whole of which originates more than 6 years before the date of the notice.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1976, SCHEDULE 6. (See end of Document for details)*

- (6) But subsection (5) does not apply where the notice is so expressed as to exclude the restrictions of that subsection; and it can only be so expressed where—
- (a) the notice being given by an inspector with consent under section 20(7), the Commissioner giving consent has also given approval to the exclusion;
 - (b) the notice being given by the Board, they have applied to a General or Special Commissioner for, and obtained, that approval.

For this purpose the Commissioner gives approval only if satisfied, on the inspector's or the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

- (7) A notice under section 20(3) in relation to a taxpayer who has died cannot be given to a person by virtue of her or his being the taxpayer's widow, widower, son or daughter if more than 6 years have elapsed since the death.
- (8) A notice under section 20(3) or section 20A(1) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.
- (9) A notice under section 20(3) does not, in the case of a person who (in the course of a business carried on by him) has stood in relation to another as tax accountant, oblige that person to deliver or make available documents which are his (the accountant's) property and originate as working papers of that relationship.

Entry with warrant to obtain documents.

20C (1) If the appropriate judicial authority is satisfied on information on oath given by an officer of the Board that—

- (a) there is reasonable ground for suspecting that an offence involving any form of fraud in connection with, or in relation to, tax has been committed and that evidence of it is to be found on premises specified in the information; and
- (b) in applying under this section, the officer acts with the approval of the Board given in relation to the particular case,

the authority may issue a warrant in writing authorising an officer of the Board to enter the premises, if necessary by force, at any time within 14 days from the time of issue of the warrant, and search them.

- (2) Section 4A of the Inland Revenue Regulation Act 1890 (Board's functions to be exercisable by an officer acting under their authority) does not apply to the giving of Board approval under this section.
- (3) On entering the premises with a warrant under this section, the officer may seize and remove any things whatsoever found there which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence as is mentioned in subsection (1) above.

But this does not authorise the seizure and removal of documents in the possession of a barrister, advocate or solicitor with respect to which a claim to professional privilege could be maintained.

- (4) Where entry to premises has been made with a warrant under this section, and the officer making the entry has seized any things under the authority of the warrant, he shall, if so requested by a person showing himself either—
- (a) to be the occupier of the premises; or

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1976, SCHEDULE 6. (See end of Document for details)

- (b) to have had the possession or custody of those things immediately before the seizure,
provide that person with a list of them.
- (5) Where documents are seized which relate to any business, and it is shown that access to them is required for the continued conduct of the business, the officer who has seized them shall afford reasonable access to the documents to the person carrying on the business.

Interpretation of ss. 20 to 20C.

- 20D(1) For the purposes of section 20A and 20C above, “the appropriate judicial authority” is—
- (a) in England and Wales, a Circuit judge;
 - (b) in Scotland, a sheriff; and
 - (c) in Northern Ireland, a county court judge.
- (2) For the purposes of sections 20 and 20A, a person stands in relation to another as tax accountant at any time when he assists the other in the preparation of returns or accounts to be made or delivered by the other for any purpose of tax; and his clients are all those to whom he stands or has stood in that relationship.
- (3) In sections 20 and 20C above “business” includes trade, profession and vocation; and in those sections and in section 20B “documents” includes books, accounts and other documents or records whatsoever.”

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1976, SCHEDULE 6.