

Status: Point in time view as at 31/01/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 21. (See end of Document for details)

SCHEDULES

SCHEDULE 21

Section 187.

OIL TAXATION: SUPPLEMENTARY PROVISIONS ABOUT INFORMATION

PART I

RESTRICTIONS ON POWERS UNDER SECTION 187

- 1 References in this Part of this Schedule to subsection (2), subsection (3) or subsection (5) are references to those subsections of section 187 of this Act.
- 2 Before a notice is given to a person by the Board under subsection (2), subsection (3) or subsection (5), the person must have been given a reasonable opportunity to deliver (or, in the case of subsection (3), to deliver or make available) the documents in question or to furnish the particulars in question; and the Board must not apply for consent under subsection (5) until the person has been given that opportunity.
- 3 (1) Subject to sub-paragraph (2) below, where a notice is given to any person under subsection (3), the Board shall give a copy of the notice to the taxpayer to whom it relates.
(2) If, on an application by the Board, a Special Commissioner so directs, a copy of a notice under subsection (3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the Board has reasonable grounds for suspecting the taxpayer of fraud.
- 4 (1) A notice under subsection (2) does not oblige a person to deliver documents or furnish particulars relating to the conduct of any pending appeal by him.
(2) A notice under subsection (3) or subsection (5) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.
(3) In this paragraph, “appeal” means appeal relating to tax.
- 5 To comply with a notice under subsection (2), and as an alternative to delivering documents to comply with a notice under subsection (3) or subsection (5), 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 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).
- 6 (1) A notice under subsection (3) does not oblige a person to deliver or make available any document the whole of which originates more than six years before the date of the notice.

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- (2) Sub-paragraph (1) above does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph; and it can only be so expressed where the Board has applied to a Special Commissioner for, and obtained, his approval.
- (3) For the purpose of sub-paragraph (2) above, the Commissioner shall give approval only if satisfied, on 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 subsection (3) or subsection (5) 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.
- 8 (1) Subject to paragraphs 9 and 10 below, a notice under subsection (3) or subsection (5)
- (a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment; and
- (b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.
- (2) In sub-paragraph (1) above "relevant communications" means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
- (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in this paragraph "tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- 9 (1) Subject to paragraph 11 below, paragraph 8 above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the Board.
- (2) For the purposes of this paragraph, a person stands in relation to another as a tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are those to whom he stands or has stood in that relationship.
- 10 Subject to paragraph 11 below, in the case of a notice under subsection (5), paragraph 8 above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.
- 11 Paragraph 8 above is not disapplied by paragraph 9 or paragraph 10 above in the case of any document if—
- (a) the information within paragraph 9 or paragraph 10 is contained in some other document; and
- (b) either—

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- (i) that other document, or a copy of it, has been delivered to the Board, or
- (ii) that other document has been inspected by an officer of the Board.
- 12 Where paragraph 8 above is disapplied by paragraph 9 or paragraph 10 above in the case of a document, the person to whom the notice is given either shall deliver the document to the Board or make it available for inspection by an officer of the Board or shall—
- (a) deliver to the Board a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within paragraph 9 or paragraph 10; and
- (b) if so required by the Board, make available for inspection by a named officer of the Board such parts of the document as contain that information; and failure to comply with any requirement under sub-paragraph (b) above shall constitute a failure to comply with the notice.

PART II

MEANING OF “DOCUMENTS”

- 13 In this Part of this Schedule “the relevant provisions” means subsections (2) to (5) of section 187 of this Act and Part I above.
- 14 (1) Subject to sub-paragraph (2) below, in the relevant provisions “document”^{F1} means anything in which information of any description is recorded].
- (2) In the relevant provisions references to documents do not include—
- (a) personal records, as defined in section 12 of the ^{M1}Police and Criminal Evidence Act 1984 or, as respects Northern Ireland, in Article 14 of the ^{M2}Police and Criminal Evidence (Northern Ireland) Order 1989, or
- (b) journalistic material, as defined in section 13 of that Act or, as respects Northern Ireland, in Article 15 of that Order,
- and references to particulars do not include particulars contained in such personal records or journalistic material.
- (3) Subject to sub-paragraph (2) above, references in the relevant provisions to documents and particulars are to those specified or described in the notice in question, and—
- (a) the notice shall require documents to be delivered or made available or particulars to be furnished within such period, being a period of not less than thirty days after the date of the notice, as may be specified in the notice; and
- (b) the person to whom they are delivered or made available or furnished may take copies of them or of extracts from them.

Textual Amendments

F1 Words in [Sch. 21 para. 14\(1\)](#) substituted (31.1.1997) by [1995 c. 38, s. 15\(1\)](#), [Sch. 1 para. 18](#) (with [ss. 1\(3\), 6\(4\)\(5\), 14](#)); [S.I. 1996/3217, art. 2](#)

Marginal Citations

M1 [1984 c. 60](#).

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M2 [S.I. 1989/1341 \(N.I. 12\)](#)

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