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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: Penalty for dishonest conduct. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 38

#### TAX AGENTS: DISHONEST CONDUCT

**Modifications etc. (not altering text)**

- C1** Sch. 38 applied by S.I. 2009/470, reg. 33(1) (as substituted (6.4.2013) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2013 \(S.I. 2013/607\)](#), regs. 1(1), **9**)
- C1** Sch. 38 applied (with application in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **41**
- C1** Sch. 38 applied (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **24(2)**
- C1** Sch. 38 applied (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **43(1)**

### PART 4

#### SANCTIONS FOR DISHONEST CONDUCT

*Penalty for dishonest conduct*

- 26 (1) An individual who engages in dishonest conduct is liable to a penalty.
- (2) Subject to paragraph 27, the penalty to which the individual is liable is to be—
- (a) no less than £5,000, and
  - (b) no more than £50,000.
- (3) In assessing the amount of the penalty, regard must be had to—
- (a) whether the individual disclosed the dishonest conduct,
  - (b) whether that disclosure was prompted or unprompted,
  - (c) the quality of that disclosure, and
  - (d) the quality of the individual's compliance with any file access notice in connection with the dishonest conduct.
- (4) An individual “discloses” dishonest conduct by—
- (a) telling HMRC about it,
  - (b) giving HMRC reasonable help in identifying the client or clients concerned and in quantifying the loss of tax revenue (if any) brought about by it, and
  - (c) allowing HMRC access to records for the purpose of ensuring that any such loss is recovered or otherwise properly accounted for.
- (5) A disclosure is “unprompted” if it is made at a time when the individual has no reason to believe that HMRC have discovered or are about to discover the dishonest conduct.

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(6) Otherwise, a disclosure is “prompted”.

(7) In relation to disclosure or compliance, “quality” includes timing, nature and extent.

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**Commencement Information**

**II** Sch. 38 para. 26 in force at 1.4.2013 by [S.I. 2013/279](#), **art. 2**

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Penalty for dishonest conduct.