



# Finance Act 2014

## 2014 CHAPTER 26

### PART 5 U.K.

#### PROMOTERS OF TAX AVOIDANCE SCHEMES

##### *Conduct notices*

#### 237 Duty to give conduct notice U.K.

- (1) Subsections (5) to (9) apply if an authorised officer becomes aware at any time that a person (“P”) who is carrying on a business as a promoter—
  - (a) has, in the period of 3 years ending with that time, met one or more threshold conditions, and
  - (b) was carrying on a business as a promoter when P met that condition.
- [<sup>F1</sup>(1A) Subsections (5) to (9) also apply if an authorised officer becomes aware at any time (“the relevant time”) that—
  - (a) a person has, in the period of 3 years ending with the relevant time, met one or more threshold conditions,
  - (b) at the relevant time another person (“P”) meets one or more of those conditions by virtue of Part 2 of Schedule 34 (meeting the threshold conditions: bodies corporate and partnerships), and
  - (c) P is, at the relevant time, carrying on a business as a promoter.]
  - (2) Part 1 of Schedule 34 sets out the threshold conditions and describes how they are met.
  - (3) Part 2 of that Schedule contains provision about [<sup>F2</sup>when a person is treated as meeting a threshold condition].
  - (4) See also Schedule 36 (which contains provision about the meeting of threshold conditions and other conditions by partnerships).
  - [<sup>F3</sup>(5) The authorised officer must determine—

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- (a) in a case within subsection (1), whether or not P's meeting of the condition mentioned in subsection (1)(a) (or, if more than one condition is met, the meeting of all of those conditions, taken together) should be regarded as significant in view of the purposes of this Part, or
  - (b) in a case within subsection (1A), whether or not—
    - <sup>F4</sup>(i) .....
    - (ii) P's meeting of the condition [<sup>F5</sup>(or, if more than one condition is met, the meeting of all of those conditions, taken together)] as mentioned in subsection (1A)(b),  
should be regarded as significant in view of those purposes.]
- <sup>F6</sup>(5A) In determining under subsection (5)(b) whether or not P's meeting of the condition (or conditions) should be regarded as significant, the authorised officer must determine whether the meeting of that condition (or those conditions taken together) by the person mentioned in subsection (1A)(a) should be regarded as significant in view of the purposes of this Part.
- (5B) If the officer determines that the meeting of the condition (or those conditions) by that person should be regarded as significant, the officer must determine that P's meeting of that condition (or those conditions) should be regarded as significant.]
- (6) Subsection (5) does not apply if a conduct notice or a monitoring notice already has effect in relation to P.
- (7) If the authorised officer determines under [<sup>F7</sup>subsection (5)(a)] that P's meeting of the condition or conditions in question should be regarded as significant, the officer must give P a conduct notice, unless subsection (8) applies.
- <sup>F8</sup>(7A) If the authorised officer determines under subsection (5)(b) that <sup>F9</sup>...—
- <sup>F10</sup>(a) .....
  - (b) P's meeting of the condition or conditions as mentioned in subsection (1A)(b), should be regarded as significant, the officer must give P a conduct notice, unless subsection (8) applies.]
- (8) This subsection applies if the authorised officer determines that, having regard to the extent of the impact that P's activities as a promoter are likely to have on the collection of tax, it is inappropriate to give P a conduct notice.
- <sup>F11</sup>(8A) Where the authorised officer is required to make a determination under subsection (5), the officer must determine that the meeting of the condition (or if more than one is met, all of them) should be regarded as significant if P falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter).]
- (9) The authorised officer must determine under subsection (5) that the meeting of the condition (or all the conditions) <sup>F12</sup>... should be regarded as significant if the condition (or any of the conditions) is in any of the following paragraphs of Schedule 34—
- (a) paragraph 2 (deliberate tax defaulters);
  - (b) paragraph 3 (breach of Banking Code of Practice);
  - (c) paragraph 4 (dishonest tax agents);
  - (d) paragraph 6 (persons charged with certain offences);
  - (e) paragraph 7 (opinion notice of GAAR Advisory Panel).

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[<sup>F13</sup>(10) If, as a result of subsection (1A), subsections (5) to (9) apply to a person, this does not prevent the giving of a conduct notice to the person mentioned in subsection (1A)(a).]

#### Textual Amendments

- F1 S. 237(1A) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(2\)](#)
- F2 Words in s. 237(3) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(3\)](#)
- F3 S. 237(5) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(4\)](#)
- F4 S. 237(5)(b)(i) and word omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(a\)\(i\)](#)
- F5 Words in s. 237(5)(b)(ii) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(a\)\(ii\)](#)
- F6 S. 237(5A)(5B) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(b\)](#)
- F7 Words in s. 237(7) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(5\)](#)
- F8 S. 237(7A) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(6\)](#)
- F9 Word in s. 237(7A) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(c\)\(i\)](#)
- F10 S. 237(7A)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(c\)\(ii\)](#)
- F11 S. 237(8A) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 11](#)
- F12 Words in s. 237(9) omitted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(7\)](#)
- F13 S. 237(10) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(8\)](#)

#### [<sup>F14</sup>237A Duty to give conduct notice: defeat of promoted arrangements **U.K.**

(1) If an authorised officer becomes aware at any time (“the relevant time”) that a person (“P”) who is carrying on a business as a promoter meets any of the conditions in subsections (11) to (13), the officer must determine whether or not P’s meeting of that condition should be regarded as significant in view of the purposes of this Part.

But see also subsection (14).

(2) An authorised officer must make the determination set out in subsection (3) if the officer becomes aware at any time (“the section 237A(2) relevant time”) that—

- (a) a person meets a condition in subsection (11), (12) or (13), and
- (b) at the section 237A(2) relevant time another person (“P”), who is carrying on a business as a promoter, meets that condition by virtue of Part 4 of Schedule 34A (meeting the section 237A conditions: bodies corporate and partnerships).

(3) The authorised officer must determine whether or not—

<sup>F15</sup>(a) .....

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(b) P's meeting of the condition as mentioned in subsection (2)(b), should be regarded as significant in view of the purposes of this Part.

<sup>F16</sup>(3A) [ In determining under subsection (3) whether or not P's meeting of the condition should be regarded as significant, the authorised officer must determine whether the meeting of that condition by the person mentioned in subsection (2)(a) should be regarded as significant in view of the purposes of this Part.

(3B) If the officer determines that the meeting of the condition by that person should be regarded as significant, the officer must determine that P's meeting of that condition should be regarded as significant.]

<sup>F17</sup>(3C) [ If a person meets a condition in subsection (11), (12) or (13) and the person falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter), the authorised officer must determine (whether under subsection (1) or (3)(a) or (b)) that the meeting of the condition should be regarded as significant.]

(4) Subsections (1) and (2) do not apply if a conduct notice or monitoring notice already has effect in relation to P.

(5) Subsection (1) does not apply if, at the relevant time, an authorised officer is under a duty to make a determination under section 237(5) in relation to P.

(6) Subsection (2) does not apply if, at the section 237A(2) relevant time, an authorised officer is under a duty to make a determination under section 237(5) in relation to P.

(7) But in a case where subsection (1) does not apply because of subsection (5), or subsection (2) does not apply because of subsection (6), subsection (5) of section 237 has effect as if—

(a) the references in paragraph (a) of that subsection to “subsection (1)”, and “subsection (1)(a)” included subsection (1) of this section, and

(b) in paragraph (b) of that subsection the reference to “subsection (1A)(a)” included a reference to subsection (2)(a) of this section and the reference to subsection (1A)(b) included a reference to subsection (2)(b) of this section.

(8) If the authorised officer determines under subsection (1) that P's meeting of the condition in question should be regarded as significant, the officer must give P a conduct notice, unless subsection (10) applies.

(9) If the authorised officer determines under subsection (3) that—

<sup>F18</sup>(a) .....

(b) P's meeting of the condition as mentioned in subsection (2)(b), should be regarded as significant in view of the purposes of this Part, the officer must give P a conduct notice, unless subsection (10) applies.

(10) This subsection applies if the authorised officer determines that, having regard to the extent of the impact that P's activities as a promoter are likely to have on the collection of tax, it is inappropriate to give P a conduct notice.

(11) The condition in this subsection is that in the period of 3 years ending with the relevant time at least 3 relevant defeats have occurred in relation to P.

(12) The condition in this subsection is that at least two relevant defeats have occurred in relation to P at times when a single defeat notice under section 241A(2) or (6) had effect in relation to P.

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- (13) The condition in this subsection is that at least one relevant defeat has occurred in relation to P at a time when a double defeat notice under section 241A(3) had effect in relation to P.
- (14) A determination that the condition in subsection (12) or (13) is met cannot be made unless—
- (a) the defeat notice in question still has effect when the determination is made, or
  - (b) the determination is made on or before the 90th day after the day on which the defeat notice in question ceased to have effect.
- (15) Schedule 34A sets out the circumstances in which a “relevant defeat” occurs in relation to a person and includes provision limiting what can amount to a further relevant defeat in relation to a person (see paragraph 6).

#### Textual Amendments

- F14** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(2\)](#)
- F15** S. 237A(3)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(a\)](#)
- F16** S. 237A(3A)(3B) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(b\)](#)
- F17** S. 237A(3C) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 12](#)
- F18** S. 237A(9)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(c\)](#)

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

- C1** S. 237A modified (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(20\)\(21\)](#)
- C2** S. 237A modified (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(22\)](#)

### **237B Duty to give further conduct notice where provisional notice not complied with **U.K.****

- (1) An authorised officer must give a conduct notice to a person (“P”) who is carrying on a business as a promoter if—
- (a) a conduct notice given to P under section 237A(8)—
    - (i) has ceased to have effect otherwise than as a result of section 237D(2) or 241(3) or (4), and
    - (ii) was provisional immediately before it ceased to have effect,
  - (b) the officer determines that P had failed to comply with one or more conditions in the conduct notice,
  - (c) the conduct notice relied on a Case 3 relevant defeat,
  - (d) since the time when the conduct notice ceased to have effect, one or more relevant defeats falling within subsection (2) have occurred in relation to—
    - (i) P, and
    - (ii) any arrangements to which the Case 3 relevant defeat also relates, and
  - (e) had that relevant defeat or (as the case may be) those relevant defeats, occurred before the conduct notice ceased to have effect, an authorised officer would have been required to notify the person under section 237C(3) that the notice was no longer provisional.

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- (2) A relevant defeat falls within this subsection if it occurs by virtue of Case 1 or Case 2 in Schedule 34A.
- (3) Subsection (1) does not apply if the authorised officer determines that, having regard to the extent of the impact that the person's activities as a promoter are likely to have on the collection of tax, it is inappropriate to give the person a conduct notice.
- (4) Subsection (1) does not apply if a conduct notice or monitoring notice already has effect in relation to the person.
- (5) For the purposes of this Part a conduct notice “relies on a Case 3 relevant defeat” if it could not have been given under the following condition.

The condition is that paragraph 9 of Schedule 34A had effect with the substitution of “ 100% of the tested arrangements ” for “75% of the tested arrangements”.

#### Textual Amendments

**F14** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(2\)](#)

### **237C** When a conduct notice given under section 237A(8) is “provisional” **U.K.**

- (1) This section applies to a conduct notice which—
  - (a) is given to a person under section 237A(8), and
  - (b) relies on a Case 3 relevant defeat.
- (2) The notice is “provisional” at all times when it has effect, unless an authorised officer notifies the person that the notice is no longer provisional.
- (3) An authorised officer must notify the person that the notice is no longer provisional if subsection (4) or (5) applies.
- (4) This subsection applies if—
  - (a) the condition in subsection (5)(a) is not met, and
  - (b) a full relevant defeat occurs in relation to P.
- (5) This subsection applies if—
  - (a) two, or all three, of the relevant defeats by reference to which the conduct notice is given would not have been relevant defeats if paragraph 9 of Schedule 34A had effect with the substitution of “ 100% of the tested arrangements ” for “75% of the tested arrangements”, and
  - (b) the same number of full relevant defeats occur in relation to P.
- (6) A “full relevant defeat” occurs in relation to P if—
  - (a) a relevant defeat occurs in relation to P otherwise than by virtue of Case 3 in paragraph 9 of Schedule 34A, or
  - (b) circumstances arise which would be a relevant defeat in relation to P by virtue of paragraph 9 of Schedule 34A if that paragraph had effect with the substitution of “ 100% of the tested arrangements ” for “75% of the tested arrangements”.
- (7) In determining under subsection (6) whether a full relevant defeat has occurred in relation to P, assume that in paragraph 6 of Schedule 34A (provision limiting what

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can amount to a further relevant defeat in relation to a person) the first reference to a “relevant defeat” does not include a relevant defeat by virtue of Case 3 in paragraph 9 of Schedule 34A.

#### Textual Amendments

**F14** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 160(2)

### **237D Judicial ruling upholding asserted tax advantage: effect on conduct notice which is provisional** **U.K.**

- (1) Subsection (2) applies if at any time—
- (a) a conduct notice which relies on a Case 3 relevant defeat (see section 237B(5)) is provisional, and
  - (b) a court or tribunal upholds a corresponding tax advantage which has been asserted in connection with any of the related arrangements to which that relevant defeat relates (see paragraph 5(2) of Schedule 34A).

(2) The conduct notice ceases to have effect when that judicial ruling becomes final.

(3) An authorised officer must give the person to whom the conduct notice was given a written notice stating that the conduct notice has ceased to have effect.

(4) For the purposes of this section, a tax advantage is “asserted” in connection with any arrangements if a person makes a return, claim or election on the basis that the tax advantage arises from those arrangements.

In relation to the arrangements mentioned in paragraph (b) of subsection (1) “corresponding tax advantage” means a tax advantage corresponding to any tax advantage the counteraction of which contributed to the relevant defeat mentioned in that paragraph.

(5) For the purposes of this section a court or tribunal “upholds” a tax advantage if—

- (a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and
- (b) that judicial ruling is final.

(6) For the purposes of this Part a judicial ruling is “final” if it is—

- (a) a ruling of the Supreme Court, or
- (b) a ruling of any other court or tribunal in circumstances where—
  - (i) no appeal may be made against the ruling,
  - (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
  - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
  - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.

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- (7) In this section references to “counteraction” include anything referred to as a counteraction in any of Conditions A to F in paragraphs 11 to 16 of Schedule 34A.]

#### Textual Amendments

**F14** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 160(2)

### 238 Contents of a conduct notice **U.K.**

- (1) A conduct notice is a notice requiring the person to whom it has been given (“the recipient”) to comply with conditions specified in the notice.
- (2) Before deciding on the terms of a conduct notice, the authorised officer must give the person to whom the notice is to be given an opportunity to comment on the proposed terms of the notice.
- (3) A notice may include only conditions that it is reasonable to impose for any of the following purposes—
  - (a) to ensure that the recipient provides adequate information to its clients about relevant proposals, and relevant arrangements, in relation to which the recipient is a promoter;
  - (b) to ensure that the recipient provides adequate information about relevant proposals in relation to which it is a promoter to persons who are intermediaries in relation to those proposals;
  - (c) to ensure that the recipient does not fail to comply with any duty under a specified disclosure provision;
  - (d) to ensure that the recipient does not discourage others from complying with any obligation to disclose to HMRC information of a description specified in the notice;
  - (e) to ensure that the recipient does not enter into an agreement with another person (“C”) which relates to a relevant proposal or relevant arrangements in relation to which the recipient is a promoter, on terms which—
    - (i) impose a contractual obligation on C which falls within paragraph 11(2) or (3) of Schedule 34 (contractual terms restricting disclosure), or
    - (ii) impose on C obligations within both paragraph 11(4) and (5) of that Schedule (contractual terms requiring contribution to fighting funds and restricting settlement of proceedings);
  - (f) to ensure that the recipient does not promote relevant proposals or relevant arrangements which rely on, or involve a proposal to rely on, one or more contrived or abnormal steps to produce a tax advantage;
  - (g) to ensure that the recipient does not fail to comply with any stop notice which has effect under paragraph 12 of Schedule 34.
  - [<sup>F19</sup>(h) to ensure that the recipient provides such information or documents to HMRC as are required for the purpose of monitoring whether and to what extent the recipient is complying with any of the conditions in the notice.]
- (4) References in subsection (3) to ensuring that adequate information is provided about proposals or arrangements include—



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- (a) ensuring the adequacy of the description of the arrangements or proposed arrangements;
  - (b) ensuring that the information includes an adequate assessment of the risk that the arrangements or proposed arrangements will fail;
  - (c) ensuring that the information does not falsely state, and is not likely to create a false impression, that HMRC have (formally or informally) considered, approved or expressed a particular opinion in relation to the proposal or arrangements.
- (5) In subsection (3)(c) “specified disclosure provision” means a disclosure provision that is specified in the notice; and for this purpose “disclosure provision” means any of the following—
- (a) section 308 of FA 2004 (disclosure of tax avoidance schemes: duties of promoter);
  - (b) section 312 of FA 2004 (duty of promoter to notify client of number);
  - (c) sections 313ZA and 313ZB of FA 2004 (duties to provide details of clients and certain others);
  - (d) Part 1 of Schedule 36 to FA 2008 (duties to provide information and produce documents).
- (6) In subsection (4)(b) “fail”, in relation to arrangements or proposed arrangements, means not result in a tax advantage which the arrangements or (as the case may be) proposed arrangements might be expected to result in.
- (7) The Treasury may by regulations amend the definition of “disclosure provision” in subsection (5).

#### Textual Amendments

**F19** S. 238(3)(h) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 23](#)

### 239 Section 238: supplementary **U.K.**

- (1) In section 238 the following expressions are to be interpreted as follows.
- (2) “Adequate” means adequate having regard to what it might be reasonable for a client or (as the case may be) an intermediary to expect; and “adequacy” is to be interpreted accordingly.
- (3) A person (“C”) is a “client” of a promoter, if at any time when a conduct notice has effect, the promoter—
- (a) makes a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
  - (b) makes a relevant proposal available for implementation by C;
  - (c) takes part in the organisation or management of relevant arrangements entered into by C.
- (4) The recipient of a conduct notice “promotes” a relevant proposal if it—
- (a) takes part in designing the proposal,

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- (b) makes a firm approach to a person in relation to the proposal with a view to making the proposal available for implementation by that person or another person, or
  - (c) makes the proposal available for implementation by persons (other than the recipient).
- (5) The recipient of a conduct notice “promotes” relevant arrangements if it takes part in designing, organising or managing the arrangements.

[<sup>F20</sup>**239A Conduct notices: transferees** **U.K.**]

- (1) This section applies if an authorised officer becomes aware at any time that a person to whom a conduct notice has been given (“P”) has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person (“D”).
- (2) The authorised officer may give D a conduct notice.
- (3) If the proposed terms of the conduct notice to be given to D are the same as the terms of the conduct notice given to P, section 238(2) (content of conduct notice: opportunity to comment) does not apply in relation to the proposed terms.
- (4) If the proposed terms of the conduct notice to be given to D differ from the terms of the conduct notice given to P, section 238(2) applies in relation to the proposed terms as if the reference in that provision to “the proposed terms of the notice” were a reference to the differences between the proposed terms of the conduct notice to be given to D and the terms of the conduct notice given to P.
- (5) Where a person is given a conduct notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.
- (6) If (in light of those representations) the authorised officer considers that this section did not apply at the time the conduct notice was given, the officer must withdraw the notice.]

**Textual Amendments**

**F20** S. 239A inserted (with effect in accordance with Sch. 30 para. 20(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 20\(1\)](#)

**240 Amendment** [<sup>F21</sup>, **withdrawal or reissue**] of **conduct notice** **U.K.**

- (1) This section applies where a conduct notice has been given to a person.
- (2) An authorised officer may at any time amend the notice.
- (3) An authorised officer—
  - (a) may withdraw the notice if the officer thinks it is not necessary for it to continue to have effect, <sup>F22</sup>...
  - <sup>F22</sup>(b) .....

[<sup>F23</sup>(4) An authorised officer may (instead of amending the notice) withdraw the notice and give a new conduct notice.]

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### Textual Amendments

- F21** Words in s. 240 heading substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 24(2)
- F22** S. 240(3)(b) and word omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of Finance Act 2021 (c. 26), Sch. 30 para. 24(3)
- F23** S. 240(4) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 24(4)

## 241 Duration of conduct notice **U.K.**

- (1) A conduct notice has effect from the date specified in it as its commencement date.
- (2) A conduct notice ceases to have effect—
- (a) at the end of [<sup>F24</sup>the relevant period] beginning with its commencement date,  
<sub>F25</sub>  
...  
<sup>F26</sup>(b) .....
- [<sup>F27</sup>(2A) But where a new conduct notice was given under section 240(4) that has a commencement date that is later than 12 months before the end of the relevant period in relation to the original notice, that new notice ceases to have effect at the end of the relevant period in relation to the original notice.]
- (3) A conduct notice ceases to have effect if withdrawn by an authorised officer under section 240.
- (4) A conduct notice ceases to have effect in relation to a person when a monitoring notice takes effect in relation to that person.
- [<sup>F28</sup>(4A) For the purposes of subsection (2)(a), the relevant period in relation to a conduct notice is calculated in accordance with this table—

<i>If the authorised officer is aware that the person to whom the notice is given meets</i>	<i>the relevant period is such period as may be notified in accordance with subsection (4B) or (4C) up to</i>
1 ordinary condition	2 years
2 ordinary conditions	4 years
3 or more ordinary conditions	5 years
1 significant condition	3 years
1 significant condition and 1 or more other significant or ordinary conditions	5 years

Subsection (4E) makes provision for the relevant period to be extended in certain circumstances.

- (4B) When an authorised officer gives a person a conduct notice the officer must notify the person of the relevant period calculated by reference to the conditions which the officer is aware the person has met at that time.

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*Changes to legislation: Finance Act 2014, Cross Heading: Conduct notices is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4C) If an authorised officer becomes aware that a person in relation to whom a conduct notice has effect has met one or more conditions which were not taken into account when the relevant period was calculated at the time the notice was given, the officer may give the person a notice—
- (a) stating that the relevant period has been recalculated to take account of the additional conditions, and
  - (b) notifying the person of—
    - (i) the new relevant period as recalculated in accordance with the table in subsection (4A), and
    - (ii) the new date at the end of which the conduct notice will cease to have effect.
- (4D) For the purposes of the table in subsection (4A)—
- (a) a condition is significant if it is—
    - (i) a threshold condition listed in section 237(9), or
    - (ii) a condition in section 237A(11), (12) or (13) in respect of which an authorised officer makes a determination (whether in accordance with section 237A(1) or (2) or for the purposes of this paragraph) that meeting the condition should be regarded as significant in view of the purposes of this Part, and
  - (b) a condition is ordinary if it is a threshold condition not listed in section 237(9).
- (4E) In calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on all or part of which the effect of the conduct notice in question has been suspended by an authorised officer.
- (4F) Where an authorised officer suspends the effect of a conduct notice, the officer must, as soon as practicable, notify the person to whom the notice was given of the suspension.
- (4G) Where an authorised officer determines that the effect of a conduct notice should be resumed, the officer must, as soon as practicable, notify the person to whom the notice was given—
- (a) that its effect has been resumed,
  - (b) of the number of days that are not to be taken into account in calculating the relevant period in accordance with subsection (4E), and
  - (c) of the new date at the end of which the relevant period is expected to end.
- (4H) Where a conduct notice has been given to a person and the person is subsequently given a notice under paragraph 1 of Schedule 36 of FA 2008 as it has effect as a result of section 272A (power to obtain information and documents), in calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on which the person has not complied with that notice.
- (4I) For the purposes of subsection (4H), a person has not complied with a notice given under that paragraph on each day—
- (a) beginning with the day after the last day on which the person could have complied with the notice, and
  - (b) ending with the day before the day (or, if more than one, the last day) on which the person provides the information or produces the documents required by the notice.

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(4J) As soon as reasonably practicable after the day mentioned in subsection (4I)(b), an authorised officer must give the person to whom the conduct notice was given notice of—

- (a) the number of days that are not to be taken into account in calculating the relevant period, and
- (b) of the new date at the end of which the relevant period is expected to end.]

[<sup>F29</sup>(5) See also section 237D(2) (provisional conduct notice affected by judicial ruling).]

#### Textual Amendments

- F24** Words in s. 241(2)(a) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 25\(a\)\(i\)](#)
- F25** Word in s. 241(2)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 25\(a\)\(ii\)](#)
- F26** S. 241(2)(b) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 25\(a\)\(iii\)](#)
- F27** S. 241(2A) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 25\(b\)](#)
- F28** S. 241(4A)-(4J) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 25\(c\)](#)
- F29** S. 241(5) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 160\(6\)](#)

**Changes to legislation:**

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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. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)