

SCHEDULES

SCHEDULE 19

PROMOTERS OF TAX AVOIDANCE SCHEMES

Failure to comply with Part 7 of FA 2004

6 In Schedule 34 (threshold conditions), in paragraph 5 (non-compliance with Part 7 of FA 2004), for sub-paragraph (2) substitute—

“(2) For the purposes of sub-paragraph (1), a person (“P”) fails to comply with a provision mentioned in that sub-paragraph if and only if any of conditions A to C are met.

(3) Condition A is met if—

- (a) the tribunal has determined that P has failed to comply with the provision concerned,
- (b) the appeal period has ended, and
- (c) the determination has not been overturned on appeal.

(4) Condition B is met if—

- (a) the tribunal has determined for the purposes of section 118(2) of TMA 1970 that P is to be deemed not to have failed to comply with the provision concerned as P had a reasonable excuse for not doing the thing required to be done,
- (b) the appeal period has ended, and
- (c) the determination has not been overturned on appeal.

(5) Condition C is met if P has admitted in writing to HMRC that P has failed to comply with the provision concerned.

(6) The “appeal period” means—

- (a) the period during which an appeal could be brought against the determination of the tribunal, or
- (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.”