
STATUTORY INSTRUMENTS

2004 No. 2613

TAXES

**The Tax Avoidance Schemes (Promoters,
Prescribed Circumstances and Information)
(Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>7th October 2004</i>
<i>Laid before the House of Commons</i>	- - - -	<i>7th October 2004</i>
<i>Coming into force</i>	- -	<i>14th October 2004</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 307(5), 310, 317(2) and 318(1) of the Finance Act 2004⁽¹⁾, make the following Regulations:

Citation, commencement, transitional provision and interpretation

1.—(1) These Regulations may be cited as the Tax Avoidance Schemes (Promoters, Prescribed Circumstances and Information) (Amendment) Regulations 2004.

(2) These Regulations shall come into force on 14th October 2004.

(3) In any case where the latest time at which a person would by virtue of regulation 4(5A) of the Information Regulations⁽²⁾, be required to provide information to the Board under section 310 of the Finance Act 2004 would be earlier than 19th November 2004, the latest time at which that information shall be required to be provided shall instead be 19th November 2004.

(4) In these Regulations—

“the Information Regulations” means the Tax Avoidance Schemes (Information) Regulations 2004⁽³⁾; and

“the Promoters Regulations” means the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004⁽⁴⁾.

Amendment of the Promoters Regulations

2. At the end of the Promoters Regulations add—

(1) 2004 c. 12. Section 318 is cited because of the meaning ascribed to “prescribed”.
(2) Paragraph (5A) is inserted into regulation 4 of the Information Regulations by regulation 3(3) of this instrument.
(3) S.I. 2004/1864.
(4) S.I. 2004/1865.

“Persons not to be treated as promoters: legal professional privilege

6. A person is not to be treated as a promoter in relation to a notifiable proposal or notifiable arrangements where his involvement with the proposal or arrangements is such that he is not required to provide all of the information prescribed in paragraph (1) or (2) (as the case may be) of regulation 3 of the Tax Avoidance Schemes (Information) Regulations 2004 by virtue of section 314 (legal professional privilege).”.

Amendment of the Information Regulations

3.—(1) Regulation 4 of the Information Regulations is amended as follows.

(2) At the end of paragraph (5) add—

“This is subject to the following qualification.”.

(3) After paragraph (5) insert—

“(5A) In the case of a notification under section 310 which arises by virtue of the application of regulation 6 of the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004 (persons not to be treated as promoters: legal professional privilege), the prescribed time is any time during the period of 5 days beginning with the day after the day on which the person enters into the first transaction forming part of the notifiable arrangements.”.

7th October 2004

Ann Chant
Dave Hartnett
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004 (S.I.2004/1864: “the Promoters Regulations”) and the Tax Avoidance Schemes (Information) Regulations 2004 (S.I. 2004/1865: “the Information Regulations”).

Regulation 1 provides for the citation and commencement of the Regulations, for the interpretation of terms used in them, and contains a transitional provision so that where the latest time at which a person would be obliged, by virtue of the new paragraph (5A) of regulation 4 of the Information Regulations to furnish information in accordance with section 310 of the Finance Act 2004 (c. 12) is before 19th November 2004, he shall instead be required instead to provide it by that date.

Regulation 2 adds a new regulation 6 at the end of the Promoters Regulations. The effect is that a person who is prevented, by reason of legal professional privilege, or, in Scotland, confidentiality of communications, from disclosing all the information which he would otherwise be required to give under regulation 3 of the Information Regulations, is not to be treated as a promoter in respect of notifiable proposals or notifiable arrangements.

Regulation 3 amends regulation 4 of the Information Regulations. The amendments provide that where the effect of the new regulation 6 of the Promoters Regulations is that no-one is under a duty to comply with section 308 or 309 of the Finance Act 2004 (c. 12), and section 310 of that Act therefore applies, the information required by regulation 3 of the Information Regulations is to be provided at any time during the period of 5 days beginning with the day after that on which the person enters into the first transaction forming part of the notifiable arrangements.

These Regulations do not impose new costs on business.