

2008 No. 1935 (C.93)

TAXES

**The Finance Act 2008, Schedule 38, (Appointed Day) Order
2008**

Made - - - -

22nd July 2008

The Treasury makes the following Order in exercise of the powers conferred by section 116(2) of the Finance Act 2008(a):

1. This Order may be cited as the Finance Act 2008, Schedule 38, (Appointed Day) Order 2008.
- 2.—(1) The day appointed as the day on which the amendments made by Schedule 38 to the Finance Act 2008 come into force is 1st November 2008.
(2) Those amendments shall not come into force for the purposes of Stamp Duty Land Tax.

Claire Ward
Dave Watts

22nd July 2008

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st November 2008 as the day on which the amendments made by Schedule 38 shall have effect. None of these amendments shall come into force for the purposes of Stamp Duty Land Tax.

Schedule 38 contains amendments to the Finance Act 2004 (c. 12) (“the 2004 Act”) and to the Taxes Management Act 1970 (c. 9).

Paragraph 2 amends subsections (1) to (3) of section 308 of the 2004 Act and substitutes new subsections (4) to (4C) for subsection (4). These provisions amend the co-promoter rule under which a co-promoter is relieved of the duty to disclose a scheme to HMRC if certain conditions are met.

Paragraph 3 amends section 311(1) of the 2004 Act to impose a duty on HMRC, if it allocates a reference number, to notify the number to the person who made the notification and any other promoter whose identity is notified to HMRC by the person who made the notification and to extend the provision to cases of incomplete notification.

Paragraph 4 introduces a modified section 312 in the 2004 Act which modifies the duty of a promoter to notify a client of the reference number notified to the promoter in relation to any notifiable arrangements; relieves the promoter of the duty to notify the number in relation to notifiable arrangements if the promoter has done so in relation to a notifiable proposal; and allows HMRC to withdraw the duty.

Paragraph 4 also introduces a new section 312A into the 2004 Act which requires a client to notify other parties of that reference number if they might obtain a tax advantage by reason of the arrangements and allows HMRC to withdraw the duty.

Paragraph 5 amends section 313 of the 2004 Act to ensure that the duty to report the reference number to HMRC applies however it is obtained by the user and provides for HMRC to withdraw the duty.

Paragraph 6 substitutes a modified section 316 which allows HMRC to specify the form and manner in which information is provided under the 2004 Act, to extend it to the new provisions and to ensure that non-compliance is liable to a penalty.

Paragraph 7 amends section 98C of the Taxes Management Act which provides for penalties for non-compliance with duties under Part 7 of the 2004 Act to add the new duties made by these amendments.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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