



# Finance Act 2004

## 2004 CHAPTER 12

### PART 8

#### MISCELLANEOUS MATTERS

#### **320 Exclusion of extended limitation period in England, Wales and Northern Ireland**

- (1) Section 32(1)(c) of the Limitation Act 1980 ([c. 58](#)) or, in Northern Ireland, Article 71(1)(c) of the Limitation (Northern Ireland) Order 1989 ([S.I. 1989/1339 \(N.I. 11\)](#)) (extended period for bringing an action in case of mistake) does not apply in relation to a mistake of law relating to a taxation matter under the care and management of the Commissioners of Inland Revenue.

This subsection has effect in relation to actions brought on or after 8th September 2003.

- (2) For the purposes of—

- (a) section 35(5)(a) of the Limitation Act 1980 or, in Northern Ireland, Article 73(4)(a) of the Limitation (Northern Ireland) Order 1989 (circumstances in which time-barred claim may be brought in course of existing action), and
- (b) rules of court or county court rules having effect for the purposes of those provisions,

as they apply to claims in respect of mistakes of the kind mentioned in subsection (1), a new claim shall not be regarded as arising out of the same facts, or substantially the same facts, if it is brought in respect of a different payment, transaction, period or other matter.

This subsection has effect in relation to claims made on or after 20th November 2003.

- (3) If before the passing of this Act—

- (a) an action is brought in relation to which a defence of limitation would have been available if subsection (1) had been in force, or
- (b) a claim is made on or after 20th November 2003 that by virtue of section 35(1)(b) of the Limitation Act 1980 ([c. 58](#)) or, in Northern Ireland, Article 73(1)(b) of the Limitation (Northern Ireland) Order 1989 ([S.I. 1989/1339 \(N.I. 11\)](#)) is

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treated as an action brought before 8th September 2003 and that claim would not have been allowed if subsections (1) and (2) above had been in force, the action (or so much of it as relates to a cause of action in respect of which a defence of limitation would have been available or, as the case may be, a claim would not have been allowed) shall be deemed to be discontinued on the passing of this Act and any payment made by the Commissioners in or towards meeting their liability in the action (or so much of the action as so relates) may be recovered by them (with interest from the date of the payment).

- (4) Nothing in this section affects a claim made before 20th November 2003 that by virtue of section 35(1)(b) of the Limitation Act 1980 or, in Northern Ireland, Article 73(1)(b) of the Limitation (Northern Ireland) Order 1989 is treated as an action brought before 8th September 2003.
- (5) For the purposes of this section a claim is treated as made before 20th November 2003 if—
  - (a) the Commissioners have before that date consented in writing to the making of the claim; or
  - (b) immediately before that date—
    - (i) the consent of the Commissioners has been sought and has not been refused, or
    - (ii) an application to the court for permission to make the claim has been made and has not been refused.
- (6) The provisions of this section apply to any action or claim for relief from the consequences of a mistake of law, whether expressed to be brought on the ground of mistake or on some other ground (such as unlawful demand or *ultra vires* act).
- (7) This section shall be construed as one with the Limitation Act 1980 or, in Northern Ireland, the Limitation (Northern Ireland) Order 1989.

### **321 Exclusion of extended prescriptive period in Scotland**

- (1) Section 6(4)(a)(ii) of the Prescription and Limitation (Scotland) Act 1973 (c. 52) (extinction of obligations by prescriptive period: exclusion of period during which creditor induced by error to refrain from making claim) does not apply in relation to an obligation based on redress of unjustified enrichment arising from an error of law relating to a taxation matter under the care and management of the Commissioners of Inland Revenue.
- (2) Subsection (1) has effect in relation to an obligation in respect of which no relevant claim has been made before 8th September 2003.
- (3) In the case of a relevant claim made on or after that date and before the passing of this Act relating to an obligation that would have been extinguished if subsections (1) and (2) had been in force—
  - (a) proceedings on the claim (or so much of the proceedings as relates to such an obligation) shall be deemed to be discontinued on the passing of this Act, and
  - (b) any payment made by the Commissioners in or towards meeting their liability on the claim (or so much of it as so relates) may be recovered by them (with interest from the date of the payment).

- (4) The provisions of this section apply in relation to any relevant claim for redress of unjustified enrichment arising from an error of law, whether expressed to be made on the ground of error or on some other ground.
- (5) In this section “relevant claim” has the same meaning as in section 6 of the Prescription and Limitation (Scotland) Act 1973.

### **322 Mutual assistance: customs union with the Principality of Andorra**

- (1) The UK mutual assistance provisions have effect for the purposes of giving effect to the EC-Andorra Mutual Assistance Recovery Decision as they have effect for the purposes of giving effect to the Mutual Assistance Recovery Directive.
- (2) In this section—
  - “the EC-Andorra Mutual Assistance Recovery Decision” means Chapter 2 of Title 1 of, and Annex 1 to, Decision No 1/2003 of the EC-Andorra Joint Committee of 3 September 2003 (on the laws, regulations and administrative provisions necessary for the proper functioning of the Customs Union between the European Community and the Principality of Andorra);
  - “the Mutual Assistance Recovery Directive” has the same meaning as in the UK mutual assistance provisions;
  - “the UK mutual assistance provisions” means the provisions of section 134 of the Finance Act 2002 (c. 23) (recovery of taxes etc due in other member States) and Schedule 39 to that Act.
- (3) In the UK mutual assistance provisions as they have effect in accordance with subsection (1)—
  - (a) references (except those in section 134(2) and paragraph 1(2)(a) of Schedule 39) to the Mutual Assistance Recovery Directive shall be read as references to the EC-Andorra Mutual Assistance Recovery Decision,
  - (b) references to another member State shall be read as references to the Principality of Andorra,
  - (c) references to the competent authority of another member State shall be read as references to the competent authority of the Principality of Andorra,
  - (d) references to a tax authority in the United Kingdom, or to the relevant UK authority, shall be read as references to the Commissioners of Customs and Excise,
  - (e) the following provisions shall be treated as omitted—
    - (i) in section 134, subsections (3)(a), (4) and (5), and
    - (ii) in Schedule 39, paragraphs 2(2) and 3(3).
- (4) The powers in section 134(6) of the Finance Act 2002 and paragraph 3 of Schedule 39 to that Act may be exercised so as to make provision for the purposes of giving effect to the EC-Andorra Mutual Assistance Recovery Decision (or amendments of the Decision) which is different to that made for the purposes of giving effect to the Mutual Assistance Recovery Directive (or amendments of the Directive).

### **323 Ending of shipbuilders' relief**

- (1) Relief under section 2 of the Finance Act 1966 (c. 18) (relief for shipbuilders in respect of certain taxes and duties) is not available, and shall be regarded as never having been

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available, in any case where the contract mentioned in subsection (2) of that section is—

- (a) a contract made on or after 1st January 2001 relating to a self-propelled sea-going commercial vessel, within the meaning of the 1998 Regulation, or
- (b) in a case not falling within paragraph (a), a contract made on or after 13th January 2004.

- (2) In this section “the 1998 Regulation” means Council Regulation (EC) No 1540/ 98 of 29 June 1998 establishing new rules on aid to shipbuilding (under which operating aid for shipbuilding ended on 31st December 2000).

### **324 Government borrowing: preparations for possible adoption of Euro**

- (1) The Treasury may incur expenditure with a view to securing that they would be able to exercise their functions under sections 12 to 20A of (and Schedule 5A to) the National Loans Act 1968 (c. 13) (national debt and government accounting) if the United Kingdom were to adopt the single currency in accordance with the Treaty establishing the European Communities.
- (2) The Director of Savings may incur expenditure with a view to securing that he would be able to exercise his functions if the United Kingdom were to adopt the single currency in accordance with the Treaty establishing the European Communities.

### **325 Premium bonds**

Regulations under section 11 of the National Debt Act 1972 (c. 65) (power of Treasury to make regulations as to raising of money under auspices of Director of Savings) may repeal any provision contained in section 54 of, or Schedule 18 to, the Finance Act 1968 (c. 44) (terms of issue of premium savings bonds).