



# Finance Act 2008

## 2008 CHAPTER 9

### PART 7

#### ADMINISTRATION

#### CHAPTER 1

##### INFORMATION ETC

##### *New information etc powers*

#### **113 Information and inspection powers**

- (1) Schedule 36 contains provision about the powers of officers of Revenue and Customs to obtain information and to inspect businesses.
- (2) That Schedule comes into force on such day as the Treasury may by order made by statutory instrument appoint.
- (3) An order under subsection (2) may contain transitional provision and savings.

#### **114 Computer records etc**

- (1) This section applies to any enactment that, in connection with an HMRC matter—
  - (a) requires a person to produce a document or cause a document to be produced,
  - (b) requires a person to permit the Commissioners or an officer of Revenue and Customs—
    - (i) to inspect a document, or
    - (ii) to make or take copies of or extracts from or remove a document,
  - (c) makes provision about penalties or offences in connection with the production or inspection of documents, including in connection with the falsification of or failure to produce or permit the inspection of documents, or

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- (d) makes any other provision in connection with a requirement mentioned in paragraph (a) or (b).
- (2) An enactment to which this section applies has effect as if—
  - (a) any reference in the enactment to a document were a reference to anything in which information of any description is recorded, and
  - (b) any reference in the enactment to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.
- (3) An authorised person may, at any reasonable time, obtain access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with a relevant document.
- (4) In subsection (3) “relevant document” means a document that a person has been, or may be, required pursuant to an enactment to which this section applies—
  - (a) to produce or cause to be produced, or
  - (b) to permit the Commissioners or an officer of Revenue and Customs to inspect, to make or take copies of or extracts from or to remove.
- (5) An authorised person may require—
  - (a) the person by whom or on whose behalf the computer is or has been so used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
 to provide the authorised person with such reasonable assistance as may be required for the purposes of subsection (3).
- (6) Any person who—
  - (a) obstructs the exercise of a power conferred by this section, or
  - (b) fails to comply within a reasonable time with a requirement under subsection (5),
 is liable to a penalty of £300.
- (7) Paragraphs 45 to 49 and 52 of Schedule 36 (assessment of and appeals against penalties) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 39 of that Schedule.
- (8) Omit the following—
  - (a) section 10 of FA 1985 (production of computer records etc in connection with assigned matters),
  - (b) section 127 of FA 1988 (production of computer records etc in connection with the Taxes Acts), and
  - (c) paragraphs 11(2) to (4) and 13(2) and (3) of Schedule 1 to the Civil Evidence Act 1995 (c. 38).
- (9) In this section—
  - “authorised person” means a person who is, or is a member of a class of persons who are, authorised by the Commissioners to exercise the powers under subsection (3),
  - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs,

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“enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

“HMRC matter” means a matter in relation to which the Commissioners, or officers of Revenue and Customs, have a power or duty, and

“produce”, in relation to a document, includes furnish, deliver and any other equivalent expression.

#### *Other measures*

### **115 Record-keeping**

- (1) Schedule 37 contains provision about the obligations to keep records for the purposes of income tax, capital gains tax, corporation tax and value added tax.
- (2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.

### **116 Disclosure of tax avoidance schemes**

- (1) Schedule 38 contains amendments relating to the disclosure of tax avoidance schemes.
- (2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

### **117 Power to open or unpack containers**

- (1) CEMA 1979 is amended as follows.
- (2) In section 1(1) (interpretation), in the definition of “container”, after “and any” insert “ baggage, ”.
- (3) Section 159 (power to examine and take account of goods) is amended as follows.
- (4) In subsection (1)—
  - (a) after “for that purpose” insert “ open or unpack any container or ”, and
  - (b) insert at the end “ and search it or anything in it. ”
- (5) In subsection (4), insert at the end “ ; but if an officer opens or unpacks any container, or searches it or anything in it, the Commissioners are to bear the expense of doing so. ”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)