



# Finance Act 2009

## 2009 CHAPTER 10

### PART 7

#### ADMINISTRATION

##### *Standards and values*

## 92 HMRC Charter

(1) In CRCA 2005, after section 16 insert—

### **“16A Charter of standards and values**

- (1) The Commissioners must prepare a Charter.
  - (2) The Charter must include standards of behaviour and values to which Her Majesty's Revenue and Customs will aspire when dealing with people in the exercise of their functions.
  - (3) The Commissioners must—
    - (a) regularly review the Charter, and
    - (b) publish revisions, or revised versions, of it when they consider it appropriate to do so.
  - (4) The Commissioners must, at least once every year, make a report reviewing the extent to which Her Majesty's Revenue and Customs have demonstrated the standards of behaviour and values included in the Charter.”
- (2) The duty imposed by section 16A(1) of CRCA 2005 must be complied with before the end of 2009.

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### **93 Duties of senior accounting officers of qualifying companies**

- (1) Schedule 46 contains provision about the duties of senior accounting officers of qualifying companies.
- (2) That Schedule has effect in relation to financial years (within the meaning of the Companies Act 2006) beginning on or after the day on which this Act is passed.

### **94 Publishing details of deliberate tax defaulters**

- (1) The Commissioners may publish information about any person if—
  - (a) in consequence of an investigation conducted by the Commissioners, one or more relevant tax penalties is found to have been incurred by the person, and
  - (b) the potential lost revenue in relation to the penalty (or the aggregate of the potential lost revenue in relation to each of the penalties) exceeds £25,000.
- (2) A “relevant tax penalty” is—
  - (a) a penalty under paragraph 1 of Schedule 24 to FA 2007 (inaccuracy in taxpayer's document) in respect of a deliberate inaccuracy on the part of the person,
  - (b) a penalty under paragraph 1A of that Schedule (inaccuracy in taxpayer's document attributable to deliberate supply of false information or deliberate withholding of information by person),
  - (c) a penalty under paragraph 1 of Schedule 41 to FA 2008 (failure to notify) in respect of a deliberate failure on the part of the person, or
  - (d) a penalty under paragraph 2 (unauthorised VAT invoice), 3 (putting product to use attracting higher duty etc) or 4 (handling goods subject to unpaid excise duty) of that Schedule in respect of deliberate action by the person.
- (3) “Potential lost revenue”, in relation to a penalty, has the meaning given by—
  - (a) paragraphs 5 to 8 of Schedule 24 to FA 2007, or
  - (b) paragraphs 7 to 11 of Schedule 41 to FA 2008,
 in relation to the inaccuracy, failure or action to which the penalty relates.
- (4) The information that may be published is—
  - (a) the person's name (including any trading name, previous name or pseudonym),
  - (b) the person's address (or registered office),
  - (c) the nature of any business carried on by the person,
  - (d) the amount of the penalty or penalties and the potential lost revenue in relation to the penalty (or the aggregate of the potential lost revenue in relation to each of the penalties),
  - (e) the periods or times to which the inaccuracy, failure or action giving rise to the penalty (or any of the penalties) relates, and
  - (f) any such other information as the Commissioners consider it appropriate to publish in order to make clear the person's identity.
- (5) The information may be published in any manner that the Commissioners consider appropriate.
- (6) Before publishing any information the Commissioners must—
  - (a) inform the person that they are considering doing so, and

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- (b) afford the person reasonable opportunity to make representations about whether it should be published.
- (7) No information may be published before the day when the penalty becomes final (or the latest day when any of the penalties becomes final).
- (8) No information may be published for the first time after the end of the period of one year beginning with that day (or that latest day).
- (9) No information may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (10) No information may be published if the amount of the penalty is reduced under—
  - (a) paragraph 10 of Schedule 24 to FA 2007, or
  - (b) paragraph 13 of Schedule 41 to FA 2008,(reductions for disclosure) to the full extent permitted.
- (11) For the purposes of this section a penalty becomes final—
  - (a) if it has been assessed, when the time for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is finally determined, or
  - (b) if a contract is made between the Commissioners and the person under which the Commissioners undertake not to assess the penalty or (if it has been assessed) not to take proceedings to recover it, at the time when the contract is made.
- (12) The Treasury may by order vary the amount for the time being specified in subsection (1).
- (13) This section comes into force on a day appointed by order made by the Treasury.
- (14) Orders under this section are to be made by statutory instrument.
- (15) A statutory instrument containing an order under subsection (12) is subject to annulment in pursuance of a resolution of the House of Commons.
- (16) In this section “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.

**Commencement Information**

**II** S. 94 in force at 1.4.2010 by [S.I. 2010/574](#), [art. 2](#)

*Information etc*

**95 Amendment of information and inspection powers**

- (1) Schedule 47 contains amendments of Schedule 36 to FA 2008 (information and inspection powers).
- (2) The Treasury may by order make any incidental, supplemental, consequential, transitional or transitory provision or saving which appears appropriate in consequence of, or otherwise in connection with, Schedule 36 to FA 2008 or Schedule 47.

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- (3) An order under this section may—
  - (a) make different provision for different purposes, and
  - (b) make provision amending, repealing or revoking an enactment or instrument (whenever passed or made).
- (4) An order under this section is to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

## 96 Extension of information and inspection powers to further taxes

- (1) In paragraph 63(1) of Schedule 36 to FA 2008 (information and inspection powers: meaning of “tax”), for paragraph (e) (and the “and” before it) substitute—
  - “(e) insurance premium tax,
  - (f) inheritance tax,
  - (g) stamp duty land tax,
  - (h) stamp duty reserve tax,
  - (i) petroleum revenue tax,
  - (j) aggregates levy,
  - (k) climate change levy,
  - (l) landfill tax, and
  - (m) relevant foreign tax,”.
- (2) Schedule 48 contains further amendments of that Schedule.
- (3) The amendments made by this section and Schedule 48 come into force on such day as the Treasury may by order appoint.
- (4) An order under subsection (3) may—
  - (a) appoint different days for different purposes, and
  - (b) contain transitional provision and savings.
- (5) The Treasury may by order make any incidental, supplemental, consequential, transitional or transitory provision or saving which appears appropriate in consequence of, or otherwise in connection with, this section and Schedule 48.
- (6) An order under subsection (5) may—
  - (a) make different provision for different purposes, and
  - (b) make provision amending, repealing or revoking an enactment or instrument (whenever passed or made).
- (7) An order under this section is to be made by statutory instrument.
- (8) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

### Commencement Information

- I2** [S. 96\(1\)](#) in force at 1.4.2010 for the purposes of the amendment made by that sub-section by [S.I. 2009/3054, art. 2](#)

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## **97 Powers to obtain contact details for debtors**

Schedule 49 contains provision about the powers of officers of Revenue and Customs to obtain contact details of debtors.

## **98 Record-keeping**

- (1) Schedule 50 contains provision about obligations to keep records.
- (2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.

*Assessments, claims etc*

## **99 Time limits for assessments, claims etc**

- (1) Schedule 51 contains provision about time limits for assessments, claims etc.
- (2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (3) An order under subsection (2)—
  - (a) may make different provision for different purposes, and
  - (b) may include transitional provision and savings.

## **100 Recovery of overpaid tax etc**

- (1) Schedule 52 contains provision for and in connection with the recovery of overpaid income tax, capital gains tax and corporation tax.
- (2) The amendments made by that Schedule have effect in relation to claims made on or after 1 April 2010.
- (3) The Treasury may by order make any incidental, supplemental, consequential, transitional or transitory provision or saving which appears appropriate in consequence of, or otherwise in connection with, that Schedule.
- (4) An order under this section may—
  - (a) make different provision for different purposes, and
  - (b) make provision modifying an enactment or instrument (whenever passed or made).
- (5) “Modifying” includes amending, repealing or revoking.
- (6) An order under this section is to be made by statutory instrument.
- (7) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

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## Interest

VALID FROM 31/08/2010

### 101 Late payment interest on sums due to HMRC

- (1) This section applies to any amount that is payable by a person to HMRC under or by virtue of an enactment.
- (2) But this section does not apply to—
  - (a) an amount of corporation tax,
  - (b) an amount of petroleum revenue tax, or
  - (c) an amount of any description specified in an order made by the Treasury.
- (3) An amount to which this section applies carries interest at the late payment interest rate from the late payment interest start date until the date of payment.
- (4) The late payment interest start date in respect of any amount is the date on which that amount becomes due and payable.
- (5) In Schedule 53—
  - (a) Part 1 makes special provision as to the amount on which late payment interest is calculated,
  - (b) Part 2 makes special provision as to the late payment interest start date,
  - (c) Part 3 makes special provision as to the date to which late payment interest runs, and
  - (d) Part 4 makes provision about the effect that the giving of a relief has on late payment interest.
- (6) Subsection (3) applies even if the late payment interest start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (7) Late payment interest is to be paid without any deduction of income tax.
- (8) Late payment interest is not payable on late payment interest.
- (9) For the purposes of this section any reference to the payment of an amount to HMRC includes a reference to its being set off against an amount payable by HMRC (and, accordingly, the reference to the date on which an amount is paid includes a reference to the date from which the set-off takes effect).

VALID FROM 31/08/2010

### 102 Repayment interest on sums to be paid by HMRC

- (1) This section applies to—
  - (a) any amount that is payable by HMRC to any person under or by virtue of an enactment, and
  - (b) a relevant amount paid by a person to HMRC that is repaid by HMRC to that person or to another person.

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- (2) But this section does not apply to—
  - (a) an amount constituting a repayment of corporation tax,
  - (b) an amount constituting a repayment of petroleum revenue tax, or
  - (c) an amount of any description specified in an order made by the Treasury.
- (3) An amount to which this section applies carries interest at the repayment interest rate from the repayment interest start date until the date on which the payment or repayment is made.
- (4) In Schedule 54—
  - (a) Parts 1 and 2 define the repayment interest start date, and
  - (b) Part 3 makes supplementary provision.
- (5) Subsection (3) applies even if the repayment interest start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (6) Repayment interest is not payable on an amount payable in consequence of an order or judgment of a court having power to allow interest on the amount.
- (7) Repayment interest is not payable on repayment interest.
- (8) For the purposes of this section—
  - (a) “relevant amount” means any sum that was paid in connection with any liability (including any purported or anticipated liability) to make a payment to HMRC under or by virtue of an enactment, and
  - (b) any reference to the payment or repayment of an amount by HMRC includes a reference to its being set off against an amount owed to HMRC (and, accordingly, the reference to the date on which an amount is paid or repaid by HMRC includes a reference to the date from which the set-off takes effect).

VALID FROM 31/08/2010

### 103 Rates of interest

- (1) The late payment interest rate is the rate provided for in regulations made by the Treasury under this subsection.
- (2) The repayment interest rate is the rate provided for in regulations made by the Treasury under this subsection.
- (3) Regulations under subsection (1) or (2)—
  - (a) may make different provision for different purposes,
  - (b) may either themselves specify a rate of interest or make provision for such a rate to be determined (and to change from time to time) by reference to such rate, or the average of such rates, as may be referred to in the regulations,
  - (c) may provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down,

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- (e) may provide for circumstances in which alteration of a rate of interest is or is not to be take place, and
- (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.

#### 104 Supplementary

- (1) In sections 101 to 103—
  - “HMRC” means Her Majesty's Revenue and Customs;
  - “late payment interest” means interest payable under section 101;
  - “repayment interest” means interest payable under section 102;
  - “revenue” has the meaning given in section 5(4) of CRCA 2005.
- (2) A reference to the date on which an amount becomes due and payable is a reference to the date (however described) on or before which the amount must be paid.
- (3) Sections 101 to 103 come into force on such day as the Treasury may by order appoint.
- (4) An order under subsection (3)—
  - (a) may commence a provision generally or only for specified purposes, and
  - (b) may appoint different days for different provisions or for different purposes.
- (5) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, those sections.
- (6) An order under subsection (5) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (7) An order under subsection (5) may make different provision for different purposes.
- (8) The following are to be made by statutory instrument—
  - (a) orders under section 101(2) or 102(2),
  - (b) regulations under section 103(1) or (2), and
  - (c) orders under subsection (3) or (5).
- (9) A statutory instrument containing—
  - (a) an order under section 101(2) or 102(2),
  - (b) regulations under section 103(1) or (2),
  - (c) an order under subsection (5) which includes provision amending or repealing any provision of an Act,
 is subject to annulment in pursuance of a resolution of the House of Commons.

#### 105 Miscellaneous amendments

- (1) Section 239 of ITA 2007 (date from which interest is chargeable when EIS relief is withdrawn or reduced) is amended as follows.
- (2) In subsection (1)—
  - (a) for “in column 1 of the following table” substitute “ in subsection (2) ”,



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- (b) for “given by the corresponding entry in column 2 of the table” substitute “31 January next following the tax year for which the assessment is made”, and
  - (c) omit the table.
- (3) For subsection (2) substitute—
- “(2) The provisions are—
- section 163,
  - section 164,
  - section 173A,
  - any of sections 181 to 188,
  - section 209,
  - section 212(1),
  - section 213,
  - section 224,
  - section 232, and
  - section 233.”
- (4) In the following provisions, for the words from “the same rate” to the end substitute “the rate applicable under section 178 of the Finance Act 1989 ”
- (a) section 48(1) of FA 1975 (interest on repayment of estate duty), and
  - (b) section 235(1) of IHTA 1984 (interest on overpaid inheritance tax).
- (5) In section 178(2) of FA 1989 (setting of rates of interest)—
- (a) after paragraph (g) insert—
    - “(ga) section 48(1) of the Finance Act 1975,”, and
  - (b) in paragraph (k), after “sections 233” insert “ , 235(1) ”.
- (6) The following provisions (which require HMRC to make an order specifying the new rate of interest when that rate is changed by operation of regulations) are omitted—
- (a) section 178(5) of FA 1989, and
  - (b) section 197(5) of FA 1996.

### *Penalties*

#### **106 Penalties for failure to make returns etc**

- (1) Schedule 55 contains provision for imposing penalties on persons in respect of failures to make returns and other documents relating to liabilities for tax.
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
  - (a) may commence a provision generally or only for specified purposes, and
  - (b) may appoint different days for different provisions or for different purposes.
- (4) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 55.

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- (5) An order under subsection (4) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (6) An order under subsection (4) may make different provision for different purposes.
- (7) An order under this section is to be made by statutory instrument.
- (8) A statutory instrument containing an order under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

### **107 Penalties for failure to pay tax**

- (1) Schedule 56 contains provision for imposing penalties on persons in respect of failures to comply with obligations to pay tax.
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
  - (a) may commence a provision generally or only for specified purposes, and
  - (b) may appoint different days for different provisions or for different purposes.
- (4) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 56.
- (5) An order under subsection (4) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (6) An order under subsection (4) may make different provision for different purposes.
- (7) An order under this section is to be made by statutory instrument.
- (8) A statutory instrument containing an order under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

### **108 Suspension of penalties during currency of agreement for deferred payment**

- (1) This section applies if—
  - (a) a person (“P”) fails to pay an amount of tax falling within the Table in subsection (5) when it becomes due and payable,
  - (b) P makes a request to an officer of Revenue and Customs that payment of the amount of tax be deferred, and
  - (c) an officer of Revenue and Customs agrees that payment of that amount may be deferred for a period (“the deferral period”).
- (2) P is not liable to a penalty for failing to pay the amount mentioned in subsection (1) if—
  - (a) the penalty falls within the Table, and
  - (b) P would (apart from this subsection) become liable to it between the date on which P makes the request and the end of the deferral period.

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- (3) But if—
- (a) P breaks the agreement (see subsection (4)), and
  - (b) an officer of Revenue and Customs serves on P a notice specifying any penalty to which P would become liable apart from subsection (2),

P becomes liable, at the date of the notice, to that penalty.

- (4) P breaks an agreement if—
- (a) P fails to pay the amount of tax in question when the deferral period ends, or
  - (b) the deferral is subject to P complying with a condition (including a condition that part of the amount be paid during the deferral period) and P fails to comply with it.

- (5) The taxes and penalties referred to in subsections (1) and (2) are—

<b><i>Tax</i></b>	<b><i>Penalty</i></b>
Income tax or capital gains tax	Surcharge under section 59C(2) or (3) of TMA 1970
Value added tax	Surcharge under section 59(4) or 59A(4) of VATA 1994
Aggregates levy	Penalty interest under paragraph 5 of Schedule 5 to FA 2001
Climate change levy	Penalty interest under paragraph 82 of Schedule 6 to FA 2000
Landfill tax	Penalty interest under paragraph 27(2) of Schedule 5 to FA 1996
Insurance premium tax	Penalty under paragraph 15(2) or (3) of Schedule 7 to FA 1994 which is payable by virtue of paragraph 15(1)(a) of that Schedule.
Any duty of excise	Penalty under section 9(2) or (3) of FA 1994 which is imposed for a failure to pay an amount of any duty of excise or an amount payable on account of any such duty.

- (6) If the agreement mentioned in subsection (1)(c) is varied at any time by a further agreement between P and an officer of Revenue and Customs, this section applies from that time to the agreement as varied.
- (7) The Treasury may by order amend the Table by adding or removing a tax or a penalty.
- (8) An order under subsection (7) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section, except in the entries in the Table, “penalty” includes surcharge and penalty interest.

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(11) This section has effect where the agreement mentioned in subsection (1)(c) is made on or after 24 November 2008.

**Modifications etc. (not altering text)**

- C1** S. 108 applied (with modifications) by S.I. 2005/2045, reg. 48(8) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2009 \(S.I. 2009/2030\)](#), regs. 1(2), **2(2)**)
- C2** S. 108 applied (with modifications) by S.I. 2003/2682, reg. 203(8) (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2), **4**)
- C3** S. 108 applied (with modifications) by S.I. 2001/1004, reg. 90K(8) (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [Social Security \(Contributions\) \(Amendment No.4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **3**)

**109 Miscellaneous amendments**

Schedule 57 contains amendments of Schedule 24 to FA 2007 (penalties for errors), Schedule 41 to FA 2008 (penalties for failure to notify and certain other wrongdoing) and certain other enactments relating to penalties.

*Miscellaneous*

**110 Recovery of debts using PAYE regulations**

Schedule 58 contains provision about the recovery of debts by means of deductions from PAYE income in accordance with PAYE regulations.

**<sup>F1</sup>111 Managed payment plans**

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**Textual Amendments**

- F1** S. 111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 7 para. 84, **10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

**112 Customs and excise enforcement: movements between member States**

(1) Section 4 of F(No.2)A 1992 (cases in which customs and excise enforcement powers can be used in relation to movement of persons or things between member States) is amended as follows.

(2) In subsection (1), after “subsection” insert “ (1A) or ”.

(3) After that subsection insert—

“(1A) The first case in which a power to which this section applies may be exercised as mentioned in subsection (1) above is where it is necessary to exercise the

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power in order to ascertain whether the movement in question is or is not in fact between different member States.”

- (4) In subsection (2), for the words from the beginning to “or that” substitute “ The second case in which a power to which this section applies may be exercised as mentioned in subsection (1) above is where ”.

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