
STATUTORY INSTRUMENTS

2009 No. 511 (C. 35)

REVENUE AND CUSTOMS

The Finance Act 2008, Schedule 41 (Appointed Day and Transitional Provisions) Order 2009

Made - - - - 5th March 2009

The Treasury make the following Order in exercise of the powers conferred by sections 122 and 123 of the Finance Act 2008⁽¹⁾:

Citation and interpretation

1.—(1) This Order may be cited as the Finance Act 2008, Schedule 41 (Appointed Day and Transitional Provisions) Order 2009.

(2) In this Order a reference to a paragraph (without more) is a reference to that paragraph of Schedule 41 to the Finance Act 2008.

(3) In this Order—

“relevant excise provision” has the meaning given in paragraph 3(1);

“relevant obligation” means an obligation specified in the Table in paragraph 1;

“unauthorised issue of an invoice” has the meaning given in paragraph 2(2).

Appointed day

2. The day appointed for the coming into force of Schedule 41 to the Finance Act 2008 is 1st April 2010.

3. That Schedule has effect—

(a) in relation to any relevant obligation arising on or after that date;

(b) in relation to any unauthorised issue of an invoice taking place on or after that date;

(c) in relation to any act which enables HMRC to assess an amount as duty under a relevant excise provision and which is done on or after that date; and

(d) in relation to any act giving rise to a penalty under paragraph 4 (handling goods subject to unpaid excise duty) which is done on or after that date.

Transitional provisions

4. Paragraph 25 (consequential repeals), paragraph 29 of Schedule 24 to the Finance Act 2007⁽²⁾ and paragraph 21 of Schedule 40 to the Finance Act 2008 repeal the following provisions only in so far as those provisions relate to conduct involving dishonesty which gives rise to a penalty under Schedule 41 to the Finance Act 2008—

- (a) in the Value Added Tax Act 1994⁽³⁾—
 - (i) sections 60 and 61 (VAT evasion), and
 - (ii) section 67(1)(b) (failure to notify);
- (b) in the Finance Act 1994⁽⁴⁾—
 - (i) section 8 (penalty for evasion of excise duty), and
 - (ii) paragraphs 12 and 13 of Schedule 7 (insurance premium tax: civil penalties);
- (c) paragraphs 18 and 19 of Schedule 5 to the Finance Act 1996⁽⁵⁾ (landfill tax: civil penalties: evasion and misdeclaration or neglect);
- (d) paragraphs 98 and 99 of Schedule 6 to the Finance Act 2000⁽⁶⁾ (climate change levy: civil penalties: evasion, liability of directors and misdeclaration or neglect);
- (e) in Schedule 6 to the Finance Act 2001⁽⁷⁾—
 - (i) paragraphs 7 and 8 (aggregates levy: civil penalties: evasion, liability of directors and misdeclaration or neglect); and
 - (ii) paragraph 9A(5)(b) (penalty under paragraph 7 above); and
- (f) section 133(2) to (4) of the Finance Act 2002⁽⁸⁾ (aggregates levy: amendments to provisions about civil penalties).

Bob Blizzard

Frank Roy

Two of the Lords Commissioners of Her Majesty's Treasury

5th March 2009

(2) 2007 c. 11.
(3) 1994 c. 23; sections 60 and 61 were repealed by paragraph 29(d) of Schedule 24 to the Finance Act 2007 (c. 11). Section 67 is prospectively repealed by paragraph 25 of Schedule 41 to the Finance Act 2008 (2008 c. 9).
(4) 1994 c. 9; section 8 and paragraphs 12 and 13 of Schedule 7 were omitted by section 112 of and paragraph 21(d) of Schedule 40 to the Finance Act 2008.
(5) 1996 c. 8; paragraphs 18 and 19 of Schedule 5 were repealed by paragraph 21(e) of Schedule 40 to the Finance Act 2008.
(6) 2000 c. 17; paragraphs 98 to 100 of Schedule 6 were omitted by paragraph 21(h) of Schedule 40 to the Finance Act 2008.
(7) 2001 c. 9; paragraph 9A of Schedule 6 was inserted by section 133(5) and (6) of the Finance Act 2002 (c. 23). Paragraph 7 to 9 and paragraph 9A(5)(b) of Schedule 6 were omitted by paragraph 21(i) of Schedule 40 to the Finance Act 2008.
(8) 2002 c. 23; sections 133(2) to (4) were omitted by paragraph 21(j) of Schedule 40 to the Finance Act 2008.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints the day on which the provisions of Schedule 41 to the Finance Act 2008 (c. 9) (“Schedule 41”) come into force. It also contains transitional provisions. Schedule 41 introduces a single penalty regime for failure to comply with a relevant obligation to notify HMRC of chargeability to tax, liability to register for tax etc., as well as providing for penalties for issuing an unauthorised VAT invoice, putting a product to a use that attracts a higher rate of excise duty and handling goods subject to unpaid excise duty.

Article 2 appoints 1st April 2010 as the day on which Schedule 41 comes into force.

Article 3 provides that Schedule 41 has effect where the relevant obligation, issue of unauthorised invoice or other culpable actions arise on or after that date.

Article 4 preserves the existing penalty provisions for evasion within the stated regimes where the dishonest conduct does not give rise to a penalty under Schedule 41.