

**2010 No. 530**

**REVENUE AND CUSTOMS**

**The Finance Act 2008 (Penalties for Errors and Failure to Notify etc) (Consequential Amendments) Order 2010**

*Made* - - - - *2nd March 2010*  
*Laid before the House of Commons* *3rd March 2010*  
*Coming into force* - - *1st April 2010*

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

**Citation and commencement**

1. This Order may be cited as the Finance Act 2008 (Penalties for Errors and Failure to Notify etc) (Consequential Amendments) Order 2010 and comes into force on 1st April 2010.

**Consequential amendments**

2. The Schedule to this Order contains amendments in consequence of Schedule 24 to the Finance Act 2007(b) and Schedule 41 to the Finance Act 2008.

2 March 2010  
Two of the Lords Commissioners of Her Majesty's Treasury  
*Dave Watts*  
*Tony Cunningham*

**SCHEDULE**

Article 2

**Taxes Management Act**

1. The Taxes Management Act 1970(c) is amended as follows.
2. In section 59C(4)(d) (surcharges on unpaid income tax and capital gains tax) for “section 7 or 93(5) of this Act or Schedule 24 to the Finance Act 2007” substitute “section 93(5) of this Act, Schedule 24 to the Finance Act 2007 or Schedule 41 to the Finance Act 2008”.

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(a) 2008 c. 9.  
(b) 2007 c. 11. Schedule 24 was amended by Schedule 40 to the Finance Act 2008.  
(c) 1970 c. 9. Sections 95 and 95A were omitted by paragraph 29(a) of Schedule 24 to the Finance Act 2007 (c. 11). Section 7(8) was omitted by paragraph 25(a)(i) of Schedule 41 to the Finance Act 2008.  
(d) Section 59C was inserted by sections 194 and 199(1) and (2)(a) of the Finance Act 1994 (c. 9). Subsection (4) was amended by section 109(1) of the Finance Act 1995 (c. 4). The reference to “95 or 95A” was omitted by S.I. 2009/571 (C. 39); the reference to “Schedule 24 to the Finance Act 2007” was inserted by S.I. 2009/571 (C. 39).

3. In section 107A(2)(a)(a) (relevant trustees)—
- (a) omit “7,” and
  - (b) after “Schedule 24 to the Finance Act 2007” insert “or Schedule 41 to the Finance Act 2008”.

**Finance Act 1994**

4. In Schedule 7 to the Finance Act 1994(b) (insurance premium tax), in paragraph 20 omit “14(3),”.

**Value Added Tax Act 1994**

5. In section 74(4) of the Value Added Tax Act 1994(c) (interest on VAT recovered or recoverable by assessment), for “section 67(2)” substitute “paragraph 2(3) of Schedule 41 to the Finance Act 2008”.

**Finance Act 1996**

6. In Schedule 5 to the Finance Act 1996(d) (landfill tax)—
- (a) in paragraph 27(9)(a) after “Part V of this Schedule” insert “or under Schedule 41 to the Finance Act 2008”;
  - (b) in paragraphs 22(4)(b) and 23(2)(b), after “Schedule 24 to the Finance Act 2007 (penalties for errors)” insert “or a penalty under Schedule 41 to the Finance Act 2008 (penalties: failure to notify and certain VAT and excise wrongdoing)”.

**Income Tax (Trading and Other Income) Act 2005**

7. The Income Tax (Trading and Other Income) Act 2005(e) is amended as follows.
8. In section 54(2) (no deduction allowed for penalties, interest and VAT surcharges), at the end of the table add—

“Penalty under Schedule 41 to FA 2008	Various taxes and excise duties”
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9. In section 869(4) (no deduction allowed for penalties, interest and VAT surcharges), at the end of the table add—

“Penalty under Schedule 41 to FA 2008	Various taxes and excise duties”
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**Corporation Tax Act 2009**

10. In section 1303(2) Corporation Tax Act 2009(f) (no deduction allowed for penalties, interest and VAT surcharges), at the end of the table add—

“Penalty under Schedule 24 to FA 2007	Various taxes and excise duties
Penalty under Schedule 41 to FA 2008	Various taxes and excise duties”

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(a) Section 107A was inserted by section 103(5) of the Finance Act 1995 (c. 4); subsection (2) was amended by paragraph 4 of Schedule 1 to S. I. 2009/571 (c. 39).

(b) 1994 c. 9.

(c) 1994 c. 23.

(d) 1996 c. 8.

(e) 2005 c. 9.

(f) 2009 c. 4.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order contains amendments in consequence of Schedule 24 to the Finance Act 2007 and Schedule 41 to the Finance Act 2008. Schedule 24 introduced a single penalty regime for errors in documents given to Her Majesty's Revenue and Customs ("HMRC"). Schedule 41 introduced 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 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 and the Schedule to the Order provide for consequential amendments to primary legislation.

An Impact Assessment on the wider penalties reform was published by HMRC on 27 March 2008 and is available from HMRC's website at <http://www.hmrc.gov.uk/ria/penalties.pdf>.

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STATUTORY INSTRUMENTS

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