

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 8 – Penalties

Chapter 1 — Penalties: Introductory

Overview

Section 157 – Penalties: overview

200. This section provides an overview of the structure of Part 8 of the Act.

Double jeopardy

Section 158 – Double jeopardy

201. This section provides that a person is not liable to any penalty under the Act if the person has already been convicted of an offence on the same matter.

Chapter 2 — Penalties for Failure to Make Returns Or Pay Tax

Penalty for failure to make returns

Section 159 – Penalty for failure to make returns

202. This section provides that a person is liable to a penalty where they fail to make a tax return (defined in the provisions listed in the table) on or before the filing date (as defined in section 82). Where a person's failure either falls: a) within more than one provision listed in the table; or b) within more than one provision in sections 160 to 167, the person is liable to a penalty for each of those returns and failures. Sections 160 to 163 apply in relation to a return listed in the table which is connected to LBTT. Sections 164 to 167 apply in relation to a return listed in the table which is connected to SLfT.

Amounts of penalties: land and buildings transaction tax

Sections 160 to 163 – Land and buildings transaction tax: first penalty for failure to make return; 3 month penalty for failure to make return; 6 month penalty for failure to make return; 12 month penalty for failure to make return

203. **Section 160** provides that the penalty amount for a person who fails to make a LBTT tax return on time (under section 159) is a fixed £100. Sections 161 to 163 provide for additional (and higher) penalty amounts if the person has not submitted the return three, six and 12 months after the penalty date, which is defined in section 159(4) as the day after the filing date.

Amounts of penalties: Scottish landfill tax

Sections 164 to 167 – Scottish landfill tax: first penalty for failure to make return; multiple failures to make return; 6 month penalty for failure to make return; 12 month penalty for failure to make return

204. **Section 164** provides that the penalty amount for a person who fails to make a SLfT tax return on time (under section 159) is a fixed £100. Section 165 provides for additional (and higher) penalty amounts if the person fails to make other SLfT returns on time within a specified penalty period. A penalty period is one which is begun under section 165(1) and, unless extended under section 165(2)(c), ends 12 months after the filing date for the return.
205. **Sections 166 and 167** provide that a person is liable to further tax-geared penalties if the person's failure to make a return continues six and 12 months respectively after the penalty date, as defined in section 159(4).

Penalties for failure to pay tax

Section 168 – Failure to pay tax

206. This section provides that a person is liable to a penalty where they fail to pay an amount of tax ("Amount of tax payable" in the table) on or before a certain date ("Date after which penalty incurred" in the table). Where a person's failure either falls: a) within more than one amount of tax payable listed in the table; or b) within more than one provision in sections 169 to 173, the person is liable to a penalty for each of those amounts of tax and failures. Section 169 applies in relation to LBTT and sections 170 to 173 apply in relation to SLfT.

Section 169 – Land and buildings transaction tax: amounts of penalties for failure to pay tax

207. This section provides that the penalty amount for a penalty under section 168 in relation to LBTT is 5% of the unpaid tax. If any amount of tax is still unpaid five months after the person first became liable to a penalty under section 159, the person is liable to a further penalty of 5% of the outstanding amount. If any amount of tax is still unpaid 11 months after the person first became liable to a penalty under section 159, the person is liable to a further penalty of 5% of the outstanding amount.

Sections 170 to 173 – Scottish landfill tax: first penalty for failure to pay tax; penalties for multiple failures to pay tax; 6 month penalty for failure to pay tax; 12 month penalty for failure to pay tax

208. **Section 170** provides that the penalty amount for a penalty under section 168 in relation to SLfT is 1% of the unpaid tax. Section 171 provides for additional (and higher) penalty amounts if the person fails to pay further amounts of tax on time within a specified penalty period. A penalty period is one which is begun under section 168(3) and, unless extended under section 171(2)(c), ends 12 months after the filing date for the return.
209. **Sections 172 and 173** provide that a person is liable to further tax-geared penalties if any amount of tax remains unpaid six and 12 months after the penalty date, as defined in section 159(4).

Penalties under Chapter 2: general

Section 174 – Interaction of penalties under Chapter 2 with other penalties

210. This section provides that any penalty applied as a result of a failure to make a tax return or failure to pay tax on time is reduced by the amount of any other penalty (which is not related to a failure to make a return on time or to pay tax on time) which is applied

and determined by the same tax liability. In other words, for a reduction under this section to be possible, the other penalty amount must be calculated: a) against the same tax liability; and b) using 'tax-g geared' or 'percentage-based' means (and so does not include a penalty where the amount is fixed or in a variable 'up to' category).

Section 175 – Reduction in penalty under sections 159 to 167 for disclosure

211. This section provides for Revenue Scotland to be able to reduce a penalty applied due to a failure to make a return. This applies only where a person discloses information to Revenue Scotland which has been previously withheld by the failure to submit a tax return. Any reductions applied may reflect whether or not the disclosure was unprompted (where the person has no reason to believe that Revenue Scotland is or is about to discover the information) and also the quality (timing, nature and extent) of the information disclosed. By timing this refers to how promptly the disclosure was made; by nature this refers to the level of evidence provided and the degree of access to test the disclosure; by extent this means how complete the disclosure may be.

Section 176 – Suspension of penalty under sections 168 to 173 during currency of agreement for deferred payment

212. This section provides that a person who has failed to pay tax by the due date can make a request to Revenue Scotland to have the payment deferred and Revenue Scotland can then choose whether or not to agree to the deferral of payment for a specified period as well as specifying any conditions of that deferral.
213. If payment is deferred, any penalty the person might have incurred during the specified period for failing to pay tax is not applied. If the person breaks the agreement (by either failing to pay the tax due when the deferral period ends or failing to comply with any condition of that deferral) the person becomes liable for any penalty that Revenue Scotland issues a notice to the person about. If the deferral agreement is further varied the agreement applies until the end of the new agreement.

Section 177 – Special reduction in penalty under Chapter 2

214. This section provides that Revenue Scotland may in special circumstances reduce a penalty that has been applied due to either a failure to make a tax return or a failure to pay tax on or before the due date. The penalty can be suspended, remitted entirely or reduced following Revenue Scotland agreeing a compromise with the taxpayer in relation to the penalty proceedings. The special circumstances under which the penalty may be reduced cannot be related to the taxpayer's ability to pay or by the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another taxpayer. The ability of Revenue Scotland to apply this discretionary reduction in the penalty can still be made following a decision of the tribunal or court in relation to the penalty.

Section 178 – Reasonable excuse for failure to make return or pay tax

215. This section provides that if a person satisfies Revenue Scotland or the tribunal that there is reasonable excuse on the person's behalf for a failure to either make a return or make a payment, then the person is not liable to pay a penalty arising from that failure. The section also sets out some circumstances in which reasonable excuse does not apply.

Section 179 – Assessment of penalties under Chapter 2

216. Subsection (1) provides that where a person becomes liable for a penalty due to a failure to make a return or pay tax, Revenue Scotland must assess the penalty, notify the person that a penalty has been incurred, and state in the notice the period or transaction against which the penalty is assessed. Subsection (2) provides that the penalty must be paid within 30 days of Revenue Scotland issuing the penalty notification. Subsection

(3) provides that the assessment of the penalty is to be treated for enforcement purposes as an assessment of tax and may be combined with an existing assessment to tax. Subsections (4) and (5) make provision for a supplementary and replacement assessments to be made in respect of a penalty applied under sections 159 to 167 and 168 to 173 respectively if the penalty was calculated in reference to the amount of tax the person was liable to pay or failed to pay and it subsequently becomes clear that this amount was an over or underestimate.

Section 180 – Time limit for assessment of penalties under Chapter 2

217. This section provides that assessment of a penalty due to a failure to make a return or pay tax must be made on or before the later of one of these two dates:

a) two years from the filing date (in the case of a failure to make a return) or the last date on which payment may be made without paying a penalty (in the case of failing to pay tax); or

b) for a failure to make a tax return:

- 12 months from either the end of the appeal period for the assessment of the liability to pay tax or, if there is no such assessment, 12 months from the date on which that liability is ascertained or that it is ascertained the liability is nil.

for a failure to pay tax:

- 12 months from either the end of the appeal period for the assessment of the liability to pay tax or, if there is no such assessment, 12 months from the date on which the amount of tax was ascertained.

Section 181 – Power to change penalty provisions in Chapter 2

218. This section provides a regulation-making power for the Scottish Ministers to make provision, or further provision, about penalties under Chapter 2 of Part 8. Such regulations are subject to the affirmative procedure, may not create criminal offences but may modify any enactment. Regulations under this section do not apply to a failure which began before the date on which the regulations came into force.

Chapter 3 — Penalties Relating to Inaccuracies

Section 182 – Penalty for inaccuracy in taxpayer document

219. This section provides that a person is liable to a penalty under this section where they give Revenue Scotland a document that falls under one of the provisions listed in the table and two conditions are met. The first condition is that the error amounts or leads to an understatement of the tax liability, a false or inflated statement of a loss or a false or inflated claim for relief or repayment of tax. The second condition is that the error is either careless or deliberate on the person's behalf. A penalty is payable for each error in a document.

Section 183 – Amount of penalty for error in taxpayer document

220. This section provides for the amount of a penalty that is payable under section 182. Different amounts apply depending on whether the failure was careless (as determined under section 182) or deliberate and are calculated with reference to the potential lost revenue. Potential lost revenue is defined in sections 187 to 190.

Section 184 – Suspension of penalty for careless inaccuracy under section 182

221. This section provides that Revenue Scotland may, by means of a written notice, suspend all or part of a penalty which is applied where a taxpayer submits a document to Revenue Scotland containing an error and which is due to careless behaviour by the taxpayer.

Subsection (2) requires that a notice served by Revenue Scotland must specify what part of the penalty is being suspended, a period not exceeding two years and the conditions of suspension with which the taxpayer must comply. Subsection (3) allows Revenue Scotland to suspend all or part of a penalty only if it meant that if a taxpayer complied with the condition of suspension the taxpayer would avoid liability to further penalties incurred under section 182 for careless inaccuracy.

Section 185 – Penalty for inaccuracy in taxpayer document attributable to another person

222. This section provides that a penalty is payable by a person (“T”) where: a) another person (“P”) submits a document to Revenue Scotland that falls under one of the provisions listed in the table in section 182; b) the document contains an inaccuracy attributable to T either deliberately supplying P with false information or deliberately withholding information from P with the intention of creating the inaccuracy and c) the inaccuracy leads to either an understatement in the tax liability or a false/inflated claim for loss or repayment of tax a penalty is payable by T whether or not P is liable to a penalty under section 182 for the same inaccuracy. The penalty amount is calculated with reference to the potential lost revenue and is 100% of the potential lost revenue. Potential lost revenue is defined in sections 187 to 190.

Section 186 – Under-assessment by Revenue Scotland

223. This section provides that a penalty is payable by a person where an assessment issued by Revenue Scotland (as defined under section 98) understates the tax liability and the person has failed to take reasonable steps to inform Revenue Scotland of that fact within 30 days of receiving the understatement. Revenue Scotland must consider whether the person knew, or should reasonably have known, about the under-assessment. References to a Revenue Scotland assessment include a Revenue Scotland determination (as defined under section 95). The penalty amount is calculated with reference to the potential lost revenue and is 30% of the potential lost revenue. Potential lost revenue is defined in sections 187 to 190.

Section 187 – Potential lost revenue: normal rule, section 188 – Potential lost revenue: multiple errors, section 189 – Potential lost revenue: losses and section 190 – Potential lost revenue: delayed tax

224. **Section 187** defines “potential lost revenue” (used in the calculation of the penalty amounts in sections 183, 185 and 186) as the additional amount due and payable (either to or from Revenue Scotland) in respect of tax as a result of correcting the inaccuracy (under sections 183 and 185) or under-assessment (under section 186).
225. **Section 188** provides that where a penalty under section 182 is for more than one inaccuracy, if a calculation of potential lost revenue depends on the order in which inaccuracies are corrected then careless inaccuracies are to be corrected before deliberate inaccuracies. In calculating potential lost revenue, account is to be taken of any overstatement in a document given by the same person in the same tax period. When calculating the amount of a penalty under section 182, no account will be taken of a potential overpayment by another person except where specifically allowed for elsewhere in the Act.
226. **Section 189** provides that where an inaccuracy has the result of a loss being recorded and the loss has been wholly used to reduce the amount of tax payable then section 189 will apply in terms of calculating potential lost revenue. Where an inaccuracy has the result of a loss being recorded partially for the purpose of reducing the amount of tax payable then potential lost revenue will be calculated: a) with reference to the part of the loss used to reduce the amount of tax payable; and b) 10% of the loss that has not been used to reduce the amount of tax payable. This applies where no loss would have been recorded apart from the inaccuracy and also to where a different loss would have

been recorded because of the inaccuracy. The potential lost revenue is nil where the nature of the loss means there is no reasonable prospect of the loss being used to reduce a tax liability.

227. **Section 190** provides that where an inaccuracy results in an amount of tax being declared later than it should have been, the potential lost revenue is 5% of the delayed tax for each year of the delay. If the delay is less than one year then the potential lost revenue is a percentage equivalent to 5% per year for each separate period of delay. This section does not apply to cases where section 189 applies.

Section 191 – Special reduction in penalty under this Chapter

228. This section provides that Revenue Scotland may reduce a penalty (including any interest applied) if it thinks it reasonable to do so because of special circumstances and the penalty is applied under sections 182, 185 and 186. A person's ability to pay tax or the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment of another are not reasons under which the penalty can be reduced.

Section 192 – Reduction in penalty under this Chapter for disclosure

229. This section provides for Revenue Scotland to be able to reduce a penalty applied due to sections 182, 185 and 186. Any reductions applied may reflect whether or not the disclosure was unprompted (where the person has no reason to believe that Revenue Scotland is or is about to discover the information) and also the quality (timing, nature and extent) of the information disclosed. By timing this refers to how promptly the disclosure was made; by nature this refers to the level of evidence provided and the degree of access to test the disclosure; by extent this means how complete the disclosure may be.

Section 193 – Assessment of penalties under this Chapter

230. This section provides that where a person becomes liable for a penalty under sections 182, 185 and 186, Revenue Scotland must assess the penalty and then notify the person of this, including making clear the period against which the penalty is being assessed. The penalty must be paid within 30 days of Revenue Scotland issuing the penalty notification to the person and this may be combined with an existing assessment to tax.
231. The assessment of a penalty due to an error in a taxpayer document attributable to either the taxpayer or another person must be made within 12 months of either the end of the appeal period for the decision correcting the inaccuracy or the date on which the inaccuracy is corrected, whichever applies. The assessment of a penalty due to an under-assessment of tax by Revenue Scotland must be made within 12 months of either the end of the appeal period for the assessment of tax which corrected the under-statement or the date on which the understatement is corrected, whichever applies.

Section 194 – Power to change penalty provisions in Chapter 3

232. This section provides a regulation-making power for the Scottish Ministers to make provision, or further provision, about penalties under Chapter 3 of Part 8. Such regulations are subject to the affirmative procedure, may not create criminal offences but may modify any enactment. Regulations under this section do not apply to a failure which began before the date on which the regulations came into force.

Chapter 4 — Penalties Relating to Investigations

Section 195 – Penalties for failure to comply or obstruction

233. This section provides that a person is liable to pay a fixed penalty for either failing to comply with an information notice or deliberately obstructing a designated officer in the course of an inspection or exercise of a power that has been approved by the tribunal

under section 147. Failing to comply with an information notice includes concealing, destroying or disposing of a document in breach of the provisions under sections 198 and 199.

Section 196 – Daily default penalties for failure to comply or obstruction

234. This section provides that a person is liable to a further fixed penalty for each subsequent day they continue to fail to comply with an information notice or deliberately obstructs a designated officer in the course of an inspection approved by the tribunal.

Section 197 – Penalties for inaccurate information or documents

235. This section provides that a person is liable in certain circumstances to pay a fixed penalty if, in the course of complying with an information notice, they submit a document which contains an error. The circumstances in which the penalty is payable are: if the error is due to careless or deliberate behaviour; if the person is aware of the error at the time of submitting the document but fails to tell Revenue Scotland; or if the person discovers the error after submitting the document but fails to take reasonable steps to inform Revenue Scotland. Where there is more than one error in a document, a fixed penalty is payable for each error.

Section 198 – Concealing, destroying etc. documents following information notice

236. This section provides that a person must not generally conceal, destroy or otherwise dispose of a document that is the subject of an information notice addressed to them, unless particular circumstances apply as set out in subsections (2) and (3). A person in breach of section 198 is liable to a penalty under section 195 on the grounds that the breach is deemed as a failure to comply with an information notice for the purposes of determining liability to the penalty.

Section 199 – Concealing, destroying etc. documents following information notification

237. This section provides that a person must not generally conceal, destroy or otherwise dispose of a document if a designated officer has informed the person that the document is, or is likely to be, the subject of an information notice addressed to that person. This section does not apply if the person acts after either at least six months since the person received the last such notification from an officer or if an information notice has been issued. A person in breach of section 199 is liable to a penalty under section 195 on the grounds that the breach is deemed as a failure to comply with an information notice for the purposes of determining liability to the penalty.

Section 200 – Failure to comply with time limit

238. This section provides that a penalty is not payable by a person failing to comply with an information notice or obstructing an officer during an investigation if a designated officer allows them further limited time to correct the failure and the person then does so.

Section 201 – Reasonable excuse for failure to comply or obstruction

239. This section provides for a person not being liable to a fixed or daily penalty (under section 195 and 196) for failure to comply with an information notice or obstructing a designated officer (or a person authorised by that officer) during an inspection, if the person satisfies Revenue Scotland or (on appeal) the tribunal that there is reasonable excuse. The section defines some circumstances which would not be accepted as reasonable excuse.

Section 202 – Assessment of penalties under sections 195, 196 and 197

240. This section provides that where a person becomes liable for a penalty under section 195, 196 or 197, Revenue Scotland must assess the penalty and then notify the person of this. The assessment of a fixed or daily penalty arising from a failure to comply with an information notice or obstructing an officer during an inspection must be made within 12 months of the person becoming liable to the penalty. An assessment of a penalty due to an error in a taxpayer document submitted following an information notice must be made within 12 months on the date that the error first came to the attention of a designated officer and within six years of the date on which the person became liable to the penalty.

Section 203 – Enforcement of penalties under sections 195, 196 and 197

241. This section provides that a penalty under section 195, 196 or 197 must be paid within 30 days of Revenue Scotland issuing the penalty notification to the person. If a notice of review is given against the penalty, the penalty must be paid within 30 days of the review being concluded. If mediation is entered into following a review, the penalty must be paid within 30 days of the person or Revenue Scotland giving notice of withdrawal from mediation (where this is the case). If notice of an appeal against the penalty is given, the penalty must be paid within 30 days of the appeal being determined or withdrawn.

Section 204 – Increased daily default penalty

242. This section provides that where a person continues to fail to comply with an information notice or obstructs an inspection and the daily default penalty has been applied for more than 30 days, a designated officer may make an application to the tribunal for an increase in the daily penalty. The tribunal may approve an increased amount up to a maximum of £1,000 for each applicable day and must have regard to factors including the likely cost of complying with the notice and the benefits to the person or anyone else arising from the non-compliance. If the tribunal approves the request, the increased daily penalty would then apply from the date of the tribunal's decision until such time as the person complies with the information notice or inspection.

Section 205 – Enforcement of increased daily default penalty

243. This section provides that an increased daily default penalty must be paid within 30 days of Revenue Scotland issuing the penalty notification to the person.

Section 206 – Tax-related penalty

244. This section provides that, where certain criteria apply, a person can be made liable for an additional penalty whose amount is decided by the Upper Tribunal. The criteria are that: a person is liable to a penalty under section 195; the person continues to fail to comply with an information notice or continues to obstruct an investigation; a designated officer believes that the amount of tax the person has paid or is likely to pay is significantly less than it would have been if they had complied; a designated officer makes an application to the Upper Tribunal for an additional penalty to be imposed; and the Upper Tribunal decides it is appropriate to do so. In determining the amount of the penalty, the Upper Tribunal must factor in the amount of tax which has not been, or is not likely to be, paid by the person. Any additional penalty imposed by a decision of the Upper Tribunal against this section is additional to the fixed and daily penalties already applied as a result of a continued failure to comply with an information notice or obstruction to an officer carrying out an inspection.

Section 207 – Enforcement of tax-related penalty

245. This section provides that a penalty applied under section 206 must be paid within 30 days of Revenue Scotland issuing the penalty notification to the person.

Section 208 – Power to change penalty provisions in Chapter 4

246. This section provides a regulation-making power for the Scottish Ministers to make provision, or further provision, about penalties under Chapter 4 of Part 8. Such regulations are subject to the affirmative procedure, may not create criminal offences but may modify any enactment. Regulations under this section do not apply to a failure which began before the date on which the regulations came into force.

Chapter 5 — Other Administrative Penalties

Section 209 – Penalty for failure to register for tax etc.

247. This section provides that a penalty is payable where a person fails to comply with a requirement imposed by or under section 22 or 23 of the LT(S)A 2014 (deemed as a “relevant requirement”) and that failure was careless or deliberate. The section also defines what is meant by a failure which is careless.

Section 210 – Amount of penalty for failure to register for tax etc.

248. This section provides the penalty amounts for a penalty under section 209. Different amounts apply depending on whether the failure was careless or deliberate (as determined under section 209(2) and are calculated with reference to the potential lost revenue. Potential lost revenue is defined as the amount of tax (if any) for which the person is liable in the period between the date from which they were liable to be registered for tax and the date on which Revenue Scotland received notification of (or became aware of) the person’s liability to be registered.

Section 211 – Interaction of penalties under section 209 with other penalties

249. This section provides that the amount of any penalty under section 209 is to be reduced by the amount of any other penalty (apart from any penalty relating to failure to make a return on time or failure to pay tax on time) if it is applied and determined by reference to the same tax liability. In other words, for a reduction under this section to be possible the other penalty amount must be calculated: a) against the same tax liability; and b) using ‘tax-gearred’ or ‘percentage-based’ means (and so does not include a penalty where the amount is fixed or in a variable ‘up to’ category).

Section 212 – Reduction in penalty under section 209 for disclosure

250. This section provides for Revenue Scotland to be able to reduce a penalty applied due to a failure to comply with a “relevant requirement” (as specified in section 209(1) (a)). The section applies when the person liable to the penalty discloses the failure to Revenue Scotland. Any reductions applied may reflect whether or not the disclosure was unprompted (where the person has no reason to believe that Revenue Scotland has discovered or is about to discover the information) and also the quality (timing, nature and extent) of the information disclosed. By timing this refers to how promptly the disclosure was made; by nature this refers to the level of evidence provided and the degree of access to test the disclosure; by extent this means how complete the disclosure may be.

Section 213 – Special reduction in penalty under section 209

251. This section provides that Revenue Scotland may in special circumstances reduce a penalty that has been applied under section 209. The penalty can be suspended, remitted entirely or reduced following Revenue Scotland agreeing a compromise with the taxpayer in relation to the penalty proceedings. The special circumstances under which the penalty may be reduced cannot be related to the taxpayer’s ability to pay or by the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another taxpayer. The ability of Revenue Scotland to apply

this discretionary reduction in the penalty can still be made following a decision of the tribunal or court in relation to the penalty.

Section 214 – Reasonable excuse for failure to register for tax etc.

252. This section provides that if a person satisfies Revenue Scotland (or on appeal the tribunal) that there is reasonable excuse on the person's behalf for a failure to comply with a "relevant requirement" (as specified in section 209(1)(a)), then the person is not liable to pay a penalty arising from that failure. The section also sets out some circumstances in which reasonable excuse does not apply.

Section 215 – Assessment of penalties under section 209

253. This section provides that where a person becomes liable for a penalty under section 209, Revenue Scotland must assess the penalty and then notify the person of this, including making clear the period against which the penalty is being assessed. The penalty must be paid within 30 days of Revenue Scotland issuing the penalty notification to the person and this may be combined with an existing assessment to tax.
254. The assessment of a penalty under section 209 must be made within 12 months of either the end of the appeal period for the assessment of unpaid tax related to the failure to comply with the 'relevant requirement' or, if there is no such assessment, the date on which the amount of unpaid tax is ascertained.

Section 216 – Power to change penalty provisions in Chapter 5

255. This section provides a regulation-making power for the Scottish Ministers to make provision, or further provision, about penalties under Chapter 5 of Part 8. Such regulations are subject to the affirmative procedure, may not create criminal offences but may modify any enactment. Regulations under this section do not apply to a failure which began before the date on which the regulations came into force.