

Status: Point in time view as at 01/02/1991. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1983 (repealed 1.9.1994), SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 38.

ADMINISTRATION, COLLECTION AND ENFORCEMENT

General

- 1 (1) The tax shall be under the care and management of the Commissioners.
- (2) All money and securities for money collected or received for or on account of the tax shall—
 - (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the ^{M1}Customs and Excise Management Act 1979;
 - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

Marginal Citations

M1 1979 c. 2.

Accounting for and payment of tax

- 2 (1) Regulations under this paragraph may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services to other taxable persons to provide them with invoices (to be known as “tax invoices”) containing statements of such particulars as may be so specified of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.
- (2) The regulations may, where they require a tax invoice to be provided in connection with any description of supply, require it to be provided within a prescribed time after the supply is treated as taking place, and may allow for that time to be extended in accordance with general or special directions given by the Commissioners.
- (3) Regulations under this paragraph may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular—
 - (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in

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pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and

- (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
- (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.

[^{F1}(3A) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, tax in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply is received; and any such regulations may make such modifications of the provisions of this Act (including in particular, but without prejudice to the generality of the power, the provisions as to the time when, and the circumstances in which, credit for input tax is to be allowed) as appear to the Commissioners necessary or expedient.]

(4) Regulations under this paragraph may make provision—

- (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period; and

[^{F2}(b) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and

- (c) for the making of financial adjustments in connection with the making of entries in accounts for the purpose mentioned in paragraph (b) above.]

(5) Regulations under this paragraph may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.

(6) The provisions made by regulations under this paragraph for cases where goods are treated as supplied by a taxable person by virtue of paragraph 6 of Schedule 2 to this Act may require the tax chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.

(7) Where, at the end of a prescribed accounting period, the amount of tax due from any person or the amount due to any person under section 14(5) of this Act would be less than £1 that amount shall be treated as nil.

Textual Amendments

F1 Sch. 7 para. 2(3A) inserted by Finance Act 1987 (c. 16, SIF 40:2), s. 11(2)

F2 Sch. 7 para. 2(4)(b)(c) substituted by Finance Act 1989 (c. 26, SIF 40:2), s. 25(2)

Production of tax invoices by computer

- 3
- (1) For the purposes of any provision contained in or having effect under this Act which relates to tax invoices a person shall be treated as issuing, or as providing another person with, a tax invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any document.
 - (2) No provision relating to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing,

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by delivering any such material so produced or by making any such transmission as is mentioned in sub-paragraph (1) above unless the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it—

- (a) has given the Commissioners at least one month's notice in writing that he proposes to produce or deliver such material or make such transmissions or, as the case may be, receive such material or transmissions; and
- (b) complies with such requirements as may be specified in regulations or as the Commissioners may from time to time impose in his case.

(3)^{F3}

Textual Amendments

F3 Sch. 7 para. 3(3)(4) repealed by Finance Act 1985 (c. 54, SIF 40:1), Sch. 27 Pt. IV

Power of Commissioners to assess tax due

- 4 (1) Where a person has failed to make any returns required under this Act or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect they may assess the amount of tax due from him to the best of their judgment and notify it to him.

[^{F4}(2) In any case where, for any prescribed accounting period, there has been paid or credited to any person-

- (a) as being a repayment or refund of tax, or
- (b) as being due to him under section 14(5) of this Act,

an amount which ought not to have been so paid or credited, [^{F5}or which would not have been so paid or credited had the facts been known or been as they later turn out to be,]the Commissioners may assess that amount as being tax due from him for that period and notify it to him accordingly.

(2A) An amount-

- (a) which has been paid to any person as being due to him under section 14(5) of this Act; and
- (b) which, by reason of the cancellation of that person's registration under paragraph 9 or 10 of Schedule 1 to this Act, ought not to have been so paid, may be assessed under sub-paragraph (2) above notwithstanding that cancellation.]

(3) Where a person is assessed under sub-paragraphs (1) and (2) above in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.

(4) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, sub-paragraph (1) above shall apply as if the reference to tax due from him included a reference to tax due from that other person.

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- (5) An assessment under sub-paragraph [^{F6}(1), (2) or (2A)]above of an amount of tax due for any prescribed accounting period shall not be made after the later of the following—
- (a) two years after the end of the prescribed accounting period; or
 - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment.
- (6) Where a taxable person has acquired or imported any goods in the course or furtherance of any business carried on by him the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him [^{F7}or have been exported from the United Kingdom otherwise than by way of supply]or have been lost or destroyed they may assess to the best of their judgment and notify to him the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him.
- [^{F8}(6A) In any case where,—
- (a) as a result of a person's failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under sub-paragraph (1) above for that period, and
 - (b) the tax assessed has been paid but no proper return has been made for the period to which the assessment related, and
 - (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in sub-paragraph (4) above, the Commissioners find it necessary to make another assessment under sub-paragraph (1) above,
- then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of tax greater than which they would otherwise have considered to be appropriate.]
- (7)
- [^{F9}(9) Where an amount has been assessed and notified to any person under sub-paragraph [^{F10}(1), (2), (2A) or (6)]above it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (10) For the purposes of this paragraph notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

Textual Amendments

- F4** Sch. 7 para. 4(2)(2A) substituted for sub-paragraph (2) by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 15(2)
- F5** Words inserted by [Finance Act 1990 \(c. 29, SIF 40:2\)](#), s. 15(1)(2)
- F6** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 15(3)

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- F7** Words inserted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, **Sch. 7 para. 1(2)**
F8 Sch. 7 para. 4(6A) inserted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, **Sch. 7 para. 1(3)**
F9 Sch. 7 para. 4(7)(8) superseded and repealed by Finance Act 1985 (c. 54, SIF 40:2), s. 22, **Sch. 27 Pt. IV**
F10 Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 15(4)

Modifications etc. (not altering text)

- C1** Sch. 7 para. 4 restricted by Finance Act 1985 (c. 54, SIF 40:2), s. 22(1)(a)
C2 Sch. 7 para. 4 amended by Finance Act 1985 (c. 54, SIF 40:2), s. 22(7)
C3 Sch. 7 para. 4 modified by S.I. 1987/2015, **reg. 10.**
C4 Sch. 7 para. 4(10) extended by Finance Act 1985 (c. 54, SIF 40:2), s. 21(8)

VALID FROM 01/01/1993

[^{F11} Assessment of tax on acquisitions of certain goods by non-taxable persons]

Textual Amendments

- F11** Sch. 7 para. 4A inserted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para.67;** S.I. 1992/3261, **art. 3**, Sch. (with art. 4)

- ^{F12}4A (1) Where a person who has, at a time when he was not a taxable person, acquired in the United Kingdom from another member State any goods subject to a duty of excise or consisting in a new means of transport and—
- (a) no notification of that acquisition has been given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
 - (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete; or
 - (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,
- they may assess the amount of tax due on the acquisition to the best of their judgment and notify their assessment to that person.
- (2) An assessment under this paragraph must be made within the time limits provided for in section 22 of the Finance Act 1985 (ultimate time limits on assessments) and shall not be made after whichever is the later of the following—
- (a) two years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
 - (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this paragraph, another assessment may be made under this paragraph, in addition to any earlier assessment.

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- (3) Where an amount has been assessed and notified to any person under this paragraph, it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) For the purposes of this paragraph notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

Textual Amendments

F12 Sch. 7 para. 4A inserted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. I para.67; S.I. 1992/3261, art. 3, Sch. (with art. 4)

Power to require security and production of evidence

- 5 (1) The Commissioners may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to the tax as may have been supplied to him and may, if they think it necessary for the protection of the revenue, require as a condition of making any payment under section 14(5) of this Act the giving of such security for the amount of the payment as appears to them appropriate.
- (2) Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as they may determine, for the payment of any tax which is or may become due from him.

Recovery of tax, etc.

- 6 (1) Tax due from any person shall be recoverable as a debt due to the Crown.
- (2) Where an invoice shows a supply of goods or services as taking place with tax chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as tax or, if the tax is not separately shown, to so much of the total amount shown as payable as is to be taken as representing tax on the supply.
- (3) Sub-paragraph (2) above applies whether or not—
- the invoice is a tax invoice issued in pursuance of paragraph 2(1) above; or
 - the supply shown on the invoice actually takes or has taken place, or the amount shown as tax, or any amount of tax, is or was chargeable on the supply; or
 - the person issuing the invoice is a taxable person;
- and any sum recoverable from a person under the sub-paragraph shall, if it is in any case tax, be recoverable as such and shall otherwise be recoverable as a debt due to the Crown.

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- (4) The Commissioners may by regulations make provision—
- (a) in respect of England and Wales and Northern Ireland for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations [^{F13}and for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations]; [^{F14}and
 - (b) in respect of Scotland for authorising the pointing of the corporeal moveables of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him and for the disposal of any moveables which are pointed in pursuance of the regulations [^{F13}and for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations]].
- [^{F14}(5) In respect of Scotland, where any tax or any sum recoverable as if it were tax is due and has not been paid, the sheriff, on an application by the Commissioners accompanied by a certificate by the Commissioners—
- (a) stating that none of the persons specified in the application has paid the tax or other sum due from him;
 - (b) stating that payment of the amount due from each such person has been demanded from him; and
 - (c) specifying the amount due from the unpaid by each such person,
- shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by any of the diligences mentioned in sub-paragraph (6) below, of the amount remaining due and unpaid.
- (6) The diligences referred to in sub-paragraph (5) above are—
- (a) a pointing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
 - (b) an earnings arrestment;
 - (c) an arrestment and action of furthcoming or sale.
- (7) Subject to sub-paragraph (8) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of pointing and sale), the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.
- (8) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the Commissioners for, sums paid to him by the debtor in respect of the amount owing.
- (9) The Commissioners may by regulations make provision for anything which the Commissioners may do under sub-paragraphs (5) to (8) above to be done by an officer of the Commissioners holding such rank as the regulations may specify.]

Textual Amendments

F13 Words inserted (E.W.N.I.) by Finance Act 1984 (c. 43, SIF 40:2), s. 16(1) (which s. 16 is repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), Sch. 8 (with Sch. 7 para. 5))

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F14 Words beginning “(5) In respect of Scotland” substituted (S.) for words beginning “and (b)” by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 74(1), **Sch. 4 para. 4** (with Sch. 7 para. 5)

Modifications etc. (not altering text)

C5 Sch. 7 para. 6(4) extended (E.W.N.I.) by Finance Act 1985 (c. 54, SIF 40:2), s. 16(1)

Duty to keep records

- 7 (1) Every taxable person shall keep such records as the Commissioners may [^{F15}by regulations]require.
- [^{F16}(1A) Regulations under sub-paragraph (1) above may make different provision for different cases and may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.]
- (2) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding [^{F17}six]years as they may require.
- (3) The duty under this paragraph to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this paragraph, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
- (4) The Commissioners may, as a condition of approving under sub-paragraph (3) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- [^{F18}(5) A statement contained in a document produced by a computer shall not by virtue of sub-paragraph (3) of this paragraph be admissible in evidence-
- (a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act ^{M2}1968;
 - (b) in criminal proceedings in England and Wales except in accordance with sections 68 to 70 of the Police and Criminal Evidence Act 1984;
 - (c) in civil proceedings in Scotland, except in accordance with sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act ^{M3}1968;
 - (d) in criminal proceedings in Scotland, except in accordance with the said sections 13 and 14, which shall, for the purposes of this paragraph, apply with the necessary modifications to such proceedings;
 - (e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) ^{M4}1971; and
 - (f) in criminal proceedings in Northern Ireland, except in accordance with the said sections 2 and 3, which shall, for the purposes of this paragraph, apply with the necessary modifications to such proceedings.]
- (6) Notwithstanding the preceding provisions of this paragraph, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter

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of which evidence could ordinarily be given by means of a certificate under section 5(4) of the Civil Evidence Act 1968 or [^{F19}section 13(4) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 or section 2(4) of the Civil Evidence Act (Northern Ireland) 1971].

(7^{F20})

Textual Amendments

- F15** Words inserted by Finance Act 1989 (c. 26, SIF 40:2), s. 25(3)
F16 Sch. 7 para. 7(1A) inserted by Finance Act 1989 (c. 26, SIF 40:2), s. 25(4)
F17 Word substituted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, Sch. 7 para. 2
F18 Sch. 7 para. 7(5) substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(1), Sch. 6 para. 41(a)
F19 Words substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(1), Sch. 6 para. 41(b)
F20 Sch. 7 para. 7(7)(8) repealed by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(1), Sch. 7 Pt. III

Marginal Citations

- M2** 1968 c. 64 (47)
M3 1968 c. 70 (47)
M4 1971 c. 36 (N.I.)

Furnishing of information and production of documents

- 8 (1) The Commissioners may by regulations make provision for requiring taxable persons to notify to the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for the purpose of keeping the register kept under this Act up to date.
- [^{F21}(2) Every person who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business or to whom such a supply is made and every person who is concerned (in whatever capacity) in the importation of goods in the course or furtherance of a business shall-
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or services or to the supply or importation as the Commissioners may reasonably specify; and
 - (b) upon demand made by an authorised person, produce or cause to be produced for inspection by that person,-
 - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
 - (ii) at such time as the authorised person may reasonably require, any documents relating to the goods or services or to the supply or importation.
- (3) Where, by virtue of sub-paragraph (2) above, an authorised person has power to require the production of any documents from any such person as is referred to in that sub-paragraph, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in

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possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.]

- (4) For the purposes of this paragraph, the documents relating to the supply of [^{F22}goods or services or the importation of goods], in the course or furtherance of any business shall be taken to include any profit and loss account and balance sheet relating to that business.
- [^{F23}(4A) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (2) or sub-paragraph (3) above.
- (4B) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (2) or sub-paragraph (3) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (3) above, the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.
- (4C) Where a document removed by an authorised person under sub-paragraph (4B) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.]
- (5) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

Textual Amendments

- F21** Sch. 7 para. 8(2)(3) substituted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, **Sch. 7 para. 3(1)**
- F22** Words substituted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, **Sch. 7 para. 3(2)**
- F23** Sch. 7 para. 8(4A)-(4C) inserted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, **Sch. 7 para. 3(3)**

Power to take samples

- 9 (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods, such samples as the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of tax.
- (2) Any sample taken under this paragraph shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (3) Where a sample is taken under this paragraph from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

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[^{F24} Power to require opening of gaming machines]

Textual Amendments

F24 Sch. 7 para. 9A inserted by Finance Act 1985 (c. 54, SIF 40:2), s. 23, Sch. 7 para. 4

- 9A An authorised person may at any reasonable time require a person making such a supply as is referred to in subsection (1) of section 13 of this Act or any person acting on his behalf-
- (a) to open any gaming machine, within the meaning of that section; and
 - (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with subsection (2) of that section, is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.

Entry and search of premises and persons

- 10 (1) For the purpose of exercising any powers under this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies and that goods to be so supplied are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.
- (3) If a justice of the peace or in Scotland a justice (within the meaning of section 462 of the ^{M5}Criminal Procedure (Scotland) Act 1975) is satisfied on information on oath that there is reasonable ground for suspecting that [^{F25}a fraud offence which appears to be of a serious nature]is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising [^{F26}subject to sub-paragraphs (5) and (6) below]any authorised person to enter those premises, if necessary by force, at any time within [^{F27}one month]from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may—
- (a) take with him such other persons as appear to him to be necessary;
 - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of [^{F28}a fraud offence which appears to him to be of a serious nature]; and
 - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe ^{F29}to be in possession of any such documents or other things;
- but no woman or girl shall be searched except by a woman.
- [^{F30}(4) In sub-paragraph (3) above “a fraud offence” means an offence under any provision of subsections (1) to (3) of section 39 of this Act.
- (5) The powers conferred by a warrant under this paragraph shall not be exercisable-

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- (a) by more than such number of authorised persons as may be specified in the warrant; nor
 - (b) outside such times of day as may be so specified; nor
 - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.
- (6) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows:-
- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
 - (b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person; and
 - (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.]

Textual Amendments

- F25** Words substituted by [Finance Act 1985 \(c.54, SIF 40:2\)](#), s. 23, [Sch. 7 para. 5\(1\)\(a\)](#)
- F26** Words inserted by [Finance Act 1985 \(c. 54, SIF 40:2\)](#), s. 23, [Sch. 7 para. 5\(1\)\(b\)](#)
- F27** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(1), [Sch. 6 para. 41\(c\)](#)
- F28** Words substituted by [Finance Act 1985 \(c. 54, SIF 40:2\)](#), s. 23, [Sch. 7 para. 5\(1\)\(c\)](#)
- F29** Words repealed by [Finance Act 1985 \(c. 54, SIF 40:2\)](#), ss. 23, 98, [Sch. 7 para. 5\(1\)\(d\)](#), Sch. 27 Pt. IV
- F30** [Sch. 7 para. 10\(4\)-\(6\)](#) added by [Finance Act 1985 \(c. 54, SIF 40:2\)](#), s. 23, [Sch. 7 para. 5\(2\)](#)

Marginal Citations

- M5** 1975 c. 21.

[^{F31} Order for access to recorded information, etc.]

Textual Amendments

- F31** [Sch. 7 para. 10A-10C](#) inserted by [Finance Act 1985 \(c. 54, SIF 40:2\)](#), s. 23, [Sch. 7 para. 6](#)

- 10A (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act ^{M6}1975) is satisfied that there are reasonable grounds for believing-
- (a) that an offence in connection with the tax is being, has been or is about to be committed, and
 - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person, he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall-

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- (a) give an authorised person access to it, and
 - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
not later than the end of the period of seven days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 8 and 10 above.

Marginal Citations

M6 1975 c. 21 (39:139:1)

Procedure where documents etc. are removed

- 10B (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 10 or 10A above shall, if so requested by a person showing himself-
- (a) to be the occupier of premises from which it was removed, or
 - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be granted access to anything which-
- (a) has been removed by an authorised person, and
 - (b) is retained by the Commissioners for the purpose of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall-
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
 - (b) photograph or copy it, or cause it to be photographed or copied.

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- (5) Where anything is photographed or copied under sub-paragraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.
- (6) The photograph or copy shall be supplied within reasonable time from the making of the request.
- (7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
 - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
 - (c) any criminal proceedings which may be brought as a result of—
 - (i) the investigation of which he is in charge, or
 - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.
- 10C (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 10B above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall be made—
- (a) in the case of a failure to comply with any of the requirements imposed by sub-paragraphs (1) and (2) of paragraph 10B above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
 - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
 - (b) in Scotland, the sheriff; and
 - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates’ Courts (Northern Ireland) Order 1981.
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.
- Evidence by certificate, etc.*
- 11 (1) A certificate of the Commissioners—
- (a) that a person was or was not, at any date, registered under this Act; or

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- (b) that any return required by or under this Act has not been made or had not been made at any date; or
- (c) that any tax shown as due in any return or assessment made in pursuance of this Act has not been paid;

shall be sufficient evidence of that fact until the contrary is proved.

- (2) A photograph of any document furnished to the Commissioners for the purposes of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.

Priority of tax in bankruptcy, winding up, etc.

- [^{F32}12 (1) There shall be included among the debts which—
- (a) under section 33 of the ^{M7}Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or
 - (b) under section 118 of the ^{M8}Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate; ^{F33}
 - (c) ^{F33}the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within the 12 months next before that date.
- (2) In this paragraph “the relevant date”—
- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be;
 - (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section;
 - (c) in relation to section 319 of the Act of 1948, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948, means the date of the appointment of the receiver or taking of possession.
- (3) For the purposes of sub-paragraph (1) above, the tax having become due within the 12 months mentioned in that sub-paragraph in respect of any prescribed accounting period falling partly within and partly outside those 12 months shall be taken to be such part of the tax due for the whole of that accounting period as is proportionate to that part of that period falling within those 12 months.
- (4) In this paragraph the reference to tax due at the relevant date is a reference to tax which is then unpaid (whether payable before or after that date); and references to tax which has become due within the 12 months next before that date are references to tax (whether payable before or after that date) which is attributable to any prescribed accounting period falling—
- (a) wholly within those 12 months; or
 - (b) subject to apportionment in accordance with sub-paragraph (3) above, partly within and partly outside those 12 months,
- including such tax assessed (whether before or after that date) under paragraph 4 above.]

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Textual Amendments

- F32** Sch. 7 para. 12 repealed (E.W.S.) by Insolvency Act 1985 (c. 65, SIF 66), s. 235, Sch. 9 para. 11(2), **Sch. 10 Pt. IV**, and (S.) by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(2), **Sch. 8**
- F33** Word “or” at the end of sub-paragraph (b) and sub-paragraph (c) repealed by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 29, **Sch. 1**
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Marginal Citations

- M7** 1914 c. 59.
M8 1913 c. 20.

Status:

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Changes to legislation:

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