

SCHEDULES

SCHEDULE 7

INSURANCE PREMIUM TAX

PART IV

PENALTIES

Criminal offences

- 9 (1) A person is guilty of an offence if—
- (a) being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or another registrable person, or
 - (b) not being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by a registrable person.
- (2) Any reference in sub-paragraph (1) above to the evasion of tax includes a reference to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act.
- (3) A person is guilty of an offence if with the requisite intent—
- (a) he produces, furnishes or sends, or causes to be produced, furnished or sent, for the purposes of this Part of this Act any document which is false in a material particular, or
 - (b) he otherwise makes use for those purposes of such a document;
- and the requisite intent is intent to deceive or to secure that a machine will respond to the document as if it were a true document.
- (4) A person is guilty of an offence if in furnishing any information for the purposes of this Part of this Act he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.
- (5) A person is guilty of an offence by virtue of this sub-paragraph if his conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this paragraph; and the preceding provisions of this sub-paragraph apply whether or not the particulars of that offence or those offences are known.
- (6) A person is guilty of an offence if—
- (a) he enters into a taxable insurance contract, or
 - (b) he makes arrangements for other persons to enter into a taxable insurance contract,
- with reason to believe that tax in respect of the contract will be evaded.

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- (7) A person is guilty of an offence if he enters into taxable insurance contracts without giving security (or further security) he has been required to give under paragraph 24 below.

Criminal penalties

- 10 (1) A person guilty of an offence under paragraph 9(1) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding six months or to both;
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) The reference in sub-paragraph (1) above to the amount of the tax shall be construed, in relation to tax itself or a payment falling within paragraph 9(2) above, as a reference to the aggregate of—
- (a) the amount (if any) falsely claimed by way of credit, and
 - (b) the amount (if any) by which the gross amount of tax was falsely understated.
- (3) A person guilty of an offence under paragraph 9(3) or (4) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or, where sub-paragraph (4) below applies, to the alternative penalty there specified if it is greater, or to imprisonment for a term not exceeding six months or to both;
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (4) In a case where—
- (a) the document referred to in paragraph 9(3) above is a return required under this Part of this Act, or
 - (b) the information referred to in paragraph 9(4) above is contained in or otherwise relevant to such a return,
- the alternative penalty is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit and the amount (if any) by which the gross amount of tax was understated.
- (5) A person guilty of an offence under paragraph 9(5) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or (if greater) three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding six months or to both;
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both;
- and paragraph 9(2) and sub-paragraph (2) above shall apply for the purposes of this sub-paragraph as they apply respectively for the purposes of paragraph 9(1) and sub-paragraph (1) above.
- (6) A person guilty of an offence under paragraph 9(6) above shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.

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(7) A person guilty of an offence under paragraph 9(7) above shall be liable on summary conviction to a penalty of level 5 on the standard scale.

(8) In this paragraph—

- (a) “credit” means credit for which provision is made by regulations under section 55 of this Act;
- (b) “the gross amount of tax” means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 55(3) of this Act.

Criminal proceedings etc.

11 Sections 145 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under paragraph 9 above and penalties imposed under paragraph 10 above as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.

Civil penalties

12 (1) In a case where—

- (a) for the purpose of evading tax, a registrable person does any act or omits to take any action, and
- (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),

he shall be liable to a penalty equal to the amount of tax evaded, or (as the case may be) sought to be evaded, by his conduct; but this is subject to sub-paragraph (7) below.

(2) The reference in sub-paragraph (1)(a) above to evading tax includes a reference to obtaining a payment under regulations under section 55(3)(c) or (d) or (f) of this Act in circumstances where the person concerned is not entitled to the sum.

(3) The reference in sub-paragraph (1) above to the amount of tax evaded or sought to be evaded is a reference to the aggregate of—

- (a) the amount (if any) falsely claimed by way of credit, and
- (b) the amount (if any) by which the gross amount of tax was falsely understated.

(4) In this paragraph—

- (a) “credit” means credit for which provision is made by regulations under section 55 of this Act;
- (b) “the gross amount of tax” means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 55(3) of this Act.

(5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in sub-paragraph (6) below by reason only that it has been drawn to his attention—

- (a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by

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- the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
- (b) that the Commissioners or, on appeal, an appeal tribunal have power under paragraph 13 below to reduce a penalty under this paragraph,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (6) The proceedings referred to in sub-paragraph (5) above are—
- (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and
- (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.
- (7) Where, by reason of conduct falling within sub-paragraph (1) above, a person is convicted of an offence (whether under this Part of this Act or otherwise) that conduct shall not also give rise to liability to a penalty under this paragraph.
- 13 (1) Where a person is liable to a penalty under paragraph 12 above the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in sub-paragraph (4) below shall be matters which the Commissioners or any appeal tribunal shall be entitled to take into account in exercising their powers under this paragraph.
- (4) Those matters are—
- (a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;
- (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax.
- 14 (1) A person who fails to comply with section 53(2) of this Act shall be liable to a penalty equal to 5 per cent. of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £250; but this is subject to sub-paragraphs (3) and (4) below.
- (2) In sub-paragraph (1) above “relevant tax” means the tax (if any) for which the person concerned is liable for the period which—
- (a) begins on the date with effect from which he is, in accordance with section 53 of this Act, required to be registered, and
- (b) ends on the date on which the Commissioners received notification of his liability to be registered.
- (3) Conduct falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his conduct.
- (4) Where, by reason of conduct falling within sub-paragraph (1) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
- (b) a person is assessed to a penalty under paragraph 12 above,

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that conduct shall not also give rise to liability to a penalty under this paragraph.

- (5) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (6) An order under sub-paragraph (5) above shall not apply in relation to a failure which ended on or before the date on which the order comes into force.
- 15 (1) This paragraph applies if a person fails to comply with—
- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations, or
 - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (5) and (6) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax due or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when he fails to pay the tax or furnish the return, but
 - (b) shall not in respect of the continuation of the failure be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid or the return is required to be furnished.
- (4) For the purposes of sub-paragraph (2) above the tax due—
- (a) shall, if the person concerned has furnished a return, be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
 - (b) shall, in any other case, be taken to be such tax as has been assessed for that period and notified to him under section 56(1) of this Act.
- (5) A failure falling within sub-paragraph (1) or (3) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (6) Where, by reason of a failure falling within sub-paragraph (1) or (3) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
 - (b) a person is assessed to a penalty under paragraph 12 above,
- that failure shall not also give rise to liability to a penalty under this paragraph.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.

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- (8) An order under sub-paragraph (7) above shall not apply in relation to a failure which began before the date on which the order comes into force.
- 16 (1) This paragraph applies where—
- (a) by virtue of regulations made under section 65 of this Act a liability notice (within the meaning of that section) is served on an insured person,
 - (b) by virtue of such regulations that person is liable to pay an amount of tax which has been assessed in accordance with the regulations, and
 - (c) that tax is not paid within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (4) and (5) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax assessed as mentioned in sub-paragraph (1) above or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when the tax is unpaid, but
 - (b) shall not in respect of the continuation of the non-payment of the tax be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid.
- (4) A person shall not be liable to a penalty by virtue of this paragraph if he satisfies the Commissioners or, on appeal, an appeal tribunal that he took all reasonable steps to ensure that the tax mentioned in sub-paragraph (1)(b) above was paid within the time required by the regulations.
- (5) Where, by reason of a failure to pay tax, a person is convicted of an offence (whether under this Part of this Act or otherwise), that failure shall not also give rise to liability to a penalty under this paragraph.
- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.
- (7) An order under sub-paragraph (6) above shall not apply in relation to any failure to pay tax that was required to be paid before the date on which the order comes into force.
- 17 (1) If a person fails to comply with—
- (a) section 53(3) of this Act,
 - (b) any provision of paragraph 2 or 3 above, or
 - (c) a requirement imposed by any regulations made under this Part of this Act, other than a requirement falling within sub-paragraph (2) below,
- he shall be liable to a penalty of £250; but this is subject to sub-paragraphs (3) and (4) below.
- (2) A requirement falls within this sub-paragraph if it is—

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- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations,
 - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations,
 - (c) a requirement imposed by regulations made under section 65 of this Act to pay tax within the time required by the regulations, or
 - (d) a requirement specified for the purposes of this sub-paragraph by regulations.
 - (3) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
 - (4) Where by reason of a failure falling within sub-paragraph (1) above—
 - (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
 - (b) a person is assessed to a penalty under paragraph 12 above,that failure shall not also give rise to liability to a penalty under this paragraph.
 - (5) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
 - (6) An order under sub-paragraph (5) above shall not apply in relation to a failure which began before the date on which the order comes into force.
- 18 (1) A person who—
- (a) by virtue of subsection (3), (7) or (9) of section 57 of this Act becomes subject to a duty to take action as mentioned in subsection (4) of that section, and
 - (b) fails to take action as so mentioned,
- shall be liable to a penalty of £10,000; but this is subject to sub-paragraph (2) below.
- (2) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
 - (3) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
 - (4) An order under sub-paragraph (3) above shall not apply in relation to a case where the duty mentioned in sub-paragraph (1) above was imposed before the date on which the order comes into force.
- 19 (1) This paragraph applies where—
- (a) in accordance with regulations under paragraph 7(7) above a distress is authorised to be levied on the goods and chattels of a person (a person in

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- default) who has refused or neglected to pay any tax due from him or any amount recoverable as if it were tax due from him, and
- (b) the person levying the distress and the person in default have entered into a walking possession agreement.
- (2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession, and
- (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to sub-paragraph (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the tax or other amount referred to in sub-paragraph (1)(a) above.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.
- (5) This paragraph does not extend to Scotland.
- 20 For the purposes of paragraphs 14(3), 15(5), 17(3), 18(2) and 19(4) above—
- (a) an insufficiency of funds available for paying any amount is not a reasonable excuse, and
- (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.