

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part XII. (See end of Document for details)

SCHEDULES

SCHEDULE 6

CLIMATE CHANGE LEVY

Modifications etc. (not altering text)

- C1** Sch. 6 modified (coming into force in accordance with art. 1 of the amending S.I.) by [The Climate Change Levy \(Suspension of Recycling Exemption\) Order 2011 \(S.I. 2011/1023\)](#), arts. 1, 2, 3
- C1** Sch. 6 modified (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 42 para. 1(1)**

PART XII

INFORMATION AND EVIDENCE

Provision of information

^{F1}124

Textual Amendments

- F1** Sch. 6 para. 124 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 8** (with art. 6)

Records

- 125 (1) The Commissioners may by regulations impose obligations to keep records on [^{F2}persons who—
- (a) are registered,
 - (b) are required to be registered, or
 - (c) are exempted from the requirement to be registered by regulations under paragraph 53(4).]
- (2) Regulations under this paragraph may be framed by reference to such records as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Regulations under this paragraph may—
- (a) require any records kept in pursuance of the regulations to be preserved for such period, not exceeding six years, as may be specified in the regulations;
 - (b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations;

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(c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.

[^{F3}(4) A duty under regulations under this paragraph to preserve records may be discharged—

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means,

subject to any conditions or exceptions specified in writing by the Commissioners.]

(6) Subject to sub-paragraphs (7) and (8), a person who fails to preserve any record in compliance with—

- (a) any regulations under this paragraph, or
- (b) any notice, direction or requirement given or imposed under such regulations,

shall be liable to a penalty of £250.

(7) A failure such as is mentioned in sub-paragraph (6) shall not give rise to any penalty under that sub-paragraph if the person required to preserve the record satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.

(8) Where, by reason of any such failure by any person as is mentioned in sub-paragraph (6)—

- (a) that person is convicted of an offence (whether under this Act or otherwise), or
- (b) that person is assessed to a penalty under paragraph 98 (penalty for evasion) [^{F4}or to a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)],

that person shall not by reason of that failure be liable also to a penalty under this paragraph.

(9) The Commissioners may if they think fit at any time modify or withdraw any ^{F5}... requirement ^{F5}... imposed for the purposes of this paragraph.

Textual Amendments	
F2	Words in Sch. 6 para. 125(1) substituted (10.7.2003) by Finance Act 2003 (c. 14), s. 192(9)
F3	Sch. 6 para. 125(4) substituted for Sch. 6 para. 125(4)(5) (1.4.2010) by Finance Act 2009 (c. 10), s. 98(2), Sch. 50 para. 19(2) ; S.I. 2010/815, art. 2
F4	Words in Sch. 6 para. 125(8)(b) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), Sch. 1 para. 20(5)
F5	Words in Sch. 6 para. 125(9) omitted (1.4.2010) by virtue of Finance Act 2009 (c. 10), s. 98(2), Sch. 50 para. 19(3) ; S.I. 2010/815, art. 2

Evidence of records that are required to be preserved

^{F6}126

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Textual Amendments

- F6** Sch. 6 para. 126 omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 20](#); [S.I. 2010/815](#), art. 2

Production of documents

F7127

Textual Amendments

- F7** Sch. 6 para. 127 omitted (1.4.2010) by virtue of [The Finance Act 2009](#), Section 96 and Schedule 48 ([Appointed Day, Savings and Consequential Amendments](#)) Order 2009 (S.I. 2009/3054), art. 1, [Sch. para. 8](#) (with art. 6)

Powers in relation to documents produced

F8128

Textual Amendments

- F8** Sch. 6 para. 128 omitted (1.4.2010) by virtue of [The Finance Act 2009](#), Section 96 and Schedule 48 ([Appointed Day, Savings and Consequential Amendments](#)) Order 2009 (S.I. 2009/3054), art. 1, [Sch. para. 8](#)

Entry and inspection

F9129

Textual Amendments

- F9** Sch. 6 para. 129 omitted (1.4.2010) by virtue of [The Finance Act 2009](#), Section 96 and Schedule 48 ([Appointed Day, Savings and Consequential Amendments](#)) Order 2009 (S.I. 2009/3054), art. 1, [Sch. para. 8](#)

Entry and search

F10130

Textual Amendments

- F10** Sch. 6 para. 130 repealed (1.12.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5), Sch. 22 para. 11(b), [Sch. 27 Pt. 5\(1\)](#); [S.I. 2007/3166](#), art. 3(a)

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Order for access to recorded information etc.

- 131 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 307 of the ^{M1}Criminal Procedure (Scotland) Act 1995) is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with levy is being, has been or is about to be committed, and
 - (b) that any recorded information (including any document of any nature at all) 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—
- (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 with 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) 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 [^{F11}stored in any electronic form], an order under this paragraph shall have effect as an order to produce the information—
- (a) in a form in which it is visible and legible [^{F12}or from which it can readily be produced in a visible and legible form]; and
 - (b) if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to the preceding paragraphs of this Part of this Schedule.

Textual Amendments

- F11** Words substituted (1.4.2003) by 2001 c. 16, ss. 70, 138(2), Sch. 2 Pt. II para. 13(1)(a)(2)(i); S.I. 2003/708, art. 2(k)
- F12** Words inserted (1.4.2003) by 2001 c. 16, ss. 70, 138(2), Sch. 2 Pt. II para. 13(1)(b)(2)(i); S.I. 2003/708, art. 2(k)

Marginal Citations

- M1** 1995 c. 46.

Removal of documents etc.

- 132 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 130 or 131 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,

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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), if a request for permission to be allowed access to anything which—
 - (a) has been removed by an authorised person, and
 - (b) is retained by the Commissioners for the purposes 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), 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.
- (5) Subject to sub-paragraph (7), where anything is photographed or copied under sub-paragraph (4)(b), the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to allow access to anything, 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 the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b).
- (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 concerned as being the officer so in charge.

Enforcement of paragraph 132

- 133
- (1) Where, on an application made as mentioned in sub-paragraph (2), the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 132, 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) shall not be made except—

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- (a) in the case of a failure to comply with any of the requirements imposed by paragraph 132(1) and (2)—
- (i) by the occupier of the premises from which the thing in question was removed, or
 - (ii) by the person who had custody or control of it immediately before it was so removed;
- (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;
 - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the ^{M2}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 ^{M3}Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

Marginal Citations

- M2** S.I. 1981/1675 (N.I. 26.)
M3 1954 c. 33 (N.I.).

Power to take samples and examine meters

- 134 (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 material which he has reasonable cause to believe is—
- (a) a taxable commodity which is intended to be, is being or has been the subject of a taxable supply, or
 - (b) a product of the burning of a taxable commodity (other than electricity) which is being or has been the subject of a taxable supply,
- such samples as he may require with a view to determining how the material ought to be treated, or to have been treated, for the purposes of the levy.
- (2) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time examine any meter which he has reasonable cause to believe is intended to be, is being or has been used for ascertaining the quantity of any taxable commodity supplied by a taxable supply.
- (3) Any sample taken under sub-paragraph (1) shall be disposed of in such manner as the Commissioners may direct.

Evidence by certificate

- 135 (1) In any proceedings a certificate of the Commissioners—
- (a) that a person was or was not at any time registered for the purposes of the levy, [^{F13}or]
 - (b) that any return required by regulations made under paragraph 41 has not been made or had not been made at any time,

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F14(c)
F15(d)

shall be evidence or, in Scotland, sufficient evidence of that fact.

- (2) A photograph of any document provided to the Commissioners for the purposes of this Schedule 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) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) shall be taken to be such a certificate unless the contrary is shown.

Textual Amendments

- F13** Word in Sch. 6 para. 135(1)(a) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 8\(a\)](#)
F14 Sch. 6 para. 135(1)(c) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 8\(b\)](#)
F15 Sch. 6 para. 135(1)(d) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 8\(b\)](#)

Inducements to provide information

- 136 (1) This paragraph applies—
- (a) to any criminal proceedings against a person in respect of an offence in connection with or in relation to levy; and
 - (b) to any proceedings against a person for the recovery of any sum due from him in connection with or in relation to levy.
- (2) Statements made or documents produced or provided by or on behalf of a person shall not be inadmissible in any proceedings to which this paragraph applies by reason only that—
- (a) a matter falling within sub-paragraph (3) or (4) has been drawn to that person's attention; and
 - (b) he was or may have been induced, as a result, to make the statements or to produce or provide the documents.
- (3) The matters falling within this sub-paragraph are—
- (a) that, in relation to levy, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings;
 - (b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person—
 - (i) has made a full confession of any dishonest conduct to which he has been a party; and
 - (ii) has otherwise co-operated to the full with any investigation.
- (4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power under any provision of this Schedule to reduce a penalty.

Disclosure of information

- 137 (1) Notwithstanding any obligation not to disclose information that would otherwise apply, but subject to sub-paragraph (2), the Commissioners may disclose any

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information obtained or held by them in or in connection with the carrying out of their functions in relation to the levy to any of the following—

- (a) any Minister of the Crown;
- (b) the Scottish Ministers;
- (c) any Minister, within the meaning of the ^{M4}Northern Ireland Act 1998, or any Northern Ireland department;
- (d) the National Assembly for Wales;
- (e) the Environment Agency;
- (f) the Scottish Environment Protection Agency;
- [^{F16}(fa) the Administrator (within the meaning of Part 4 of this Schedule);]
- (g) the Gas and Electricity Markets Authority;
- (h) the Director General of Electricity Supply for Northern Ireland;
- (i) the Director General of Gas for Northern Ireland;
- (j) an authorised officer of any person mentioned in paragraphs (a) to (i).

- (2) Information shall not be disclosed under sub-paragraph (1) except for the purpose of assisting a person falling within paragraphs (a) to (j) of that sub-paragraph in the performance of his duties.
- (3) Notwithstanding any such obligation as is mentioned in sub-paragraph (1), any person mentioned in sub-paragraph (1)(a) to (j) may disclose information—
 - (a) to the Commissioners, or
 - (b) to an authorised officer of the Commissioners,
 for the purpose of assisting the Commissioners in the performance of duties in relation to the levy.
- (4) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
 - (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made; or
 - (b) for the purpose of any proceedings connected with the operation of any provision made by or under any enactment relating to the environment or to levy.
- (5) References in the preceding provisions of this paragraph to an authorised officer of any person (“the principal”) are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.
- (6) Where the principal is a person falling within any of paragraphs (a) to (c) of sub-paragraph (1), the principal shall notify the Commissioners in writing of the name of any person designated by the principal for the purposes of this paragraph.
- (7) No charge may be made for any disclosure made by virtue of this paragraph.
- (8) In this paragraph “enactment” includes an enactment contained in an Act of the Scottish Parliament or in any Northern Ireland legislation.

Textual Amendments

- F16** Sch. 6 para. 137(1)(fa) inserted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 31 para. 10 (with Sch. 31 para. 11)

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Marginal Citations

M4 1998 c. 47.

Meaning of “authorised person”

138 In this Part of this Schedule “authorised person” means any person acting under the authority of the Commissioners.

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