



# Finance Act 2002

## 2002 CHAPTER 23

### PART 6

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

##### *Recovery of taxes etc due in other member States*

#### **134 Recovery of taxes etc due in other member States**

- (1) Schedule 39 to this Act has effect with respect to the recovery in the United Kingdom of amounts in respect of which a request for enforcement has been made in accordance with the Mutual Assistance Recovery Directive by an authority in another member State.
- (2) The “Mutual Assistance Recovery Directive” means Council Directive [76/308/EEC](#), as amended by Council Directive [2001/44/EC](#).
- (3) No obligation of secrecy imposed by statute or otherwise precludes a tax authority in the United Kingdom—
  - (a) from disclosing information to another tax authority in the United Kingdom in connection with a request for enforcement made by the competent authority of another member State;
  - (b) from disclosing information that is required to be disclosed to the competent authority of another member State by virtue of the Mutual Assistance Recovery Directive;
  - (c) from disclosing information for the purposes of a request made by the tax authority under that Directive for the enforcement in another member State of an amount claimed by the authority in the United Kingdom.
- (4) In subsection (3) “tax authority in the United Kingdom” means—
  - (a) the Commissioners of Customs and Excise,
  - (b) the Commissioners of Inland Revenue, or

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- (c) in relation to agricultural levies of the European Community within the meaning of section 6 of the European Communities Act 1972 (c. 72), any relevant Minister within the meaning of that section.
- (5) Subsection (3)(a) does not apply in relation to disclosure by the Commissioners of Inland Revenue to a relevant Minister.
- (6) The Treasury may by regulations make such provision as appears to them appropriate for the purpose of giving effect to any future amendments of the Mutual Assistance Recovery Directive.  
  
The regulations may amend, replace or repeal any of the provisions of subsections (1) to (4) above or of Schedule 39.
- (7) Regulations under subsection (6) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

### *Mandatory e-filing*

#### **135 Mandatory e-filing**

- (1) The Commissioners of Inland Revenue (“the Commissioners”) may make regulations requiring the use of electronic communications for the delivery by specified persons of specified information required or authorised to be delivered by or under legislation relating to a taxation matter.
- (2) Regulations under this section may make provision—
  - (a) as to the electronic form to be taken by information delivered to the Inland Revenue using electronic communications;
  - (b) requiring persons to prepare and keep records of information delivered to Inland Revenue by means of electronic communications;
  - (c) for the production of the contents of records kept in accordance with the regulations;
  - (d) as to conditions that must be complied with in connection with the use of electronic communications for the delivery of information;
  - (e) for treating information as not having been delivered unless conditions imposed by any of the regulations are satisfied;
  - (f) for determining the time at which and person by whom information is to be taken to have been delivered;
  - (g) for authenticating whatever is delivered.
- (3) Regulations under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—
  - (a) whether any use of electronic communications is to be taken as having resulted in the delivery of information;
  - (b) the time of delivery of any information for the delivery of which electronic communications have been used;
  - (c) the person by whom information delivered by means of electronic communications was delivered;
  - (d) the contents of anything so delivered;
  - (e) the contents of any records;

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- (f) any other matter for which provision may be made by regulations under this section.
- (4) Regulations under this section may—
- (a) allow any authorisation or requirement for which the regulations may provide to be given or imposed by means of a specific or general direction given by the Commissioners;
  - (b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the Inland Revenue are satisfied as to specified matters;
  - (c) allow a person to refuse to accept delivery of information in an electronic form or by means of electronic communications except in such circumstances as may be specified in or determined under the regulations;
  - (d) allow or require use to be made of intermediaries in connection with—
    - (i) the delivery of information by means of electronic communications; or
    - (ii) the authentication or security of anything transmitted by any such means.
- (5) Regulations under this section may contain provision—
- (a) requiring the Inland Revenue to notify persons appearing to them to be, or to have become, a person of a specified description and accordingly required to use electronic communications for any purpose in accordance with the regulations,
  - (b) enabling a person so notified to have the question whether he is a person of such a description determined in the same way as an appeal.
- (6) Regulations under this section may provide—
- (a) that information delivered by means of electronic communications must meet standards of accuracy and completeness set by specific or general directions given by the Commissioners, and
  - (b) that failure to meet those standards may be treated—
    - (i) as a failure to deliver the information, or
    - (ii) as a failure to comply with the requirements of the regulations.
- (7) The power to make provision by regulations under this section includes power—
- (a) to provide for a contravention of, or any failure to comply with, the regulations to attract a penalty of a specified amount not exceeding £3,000;
  - (b) to provide that specified enactments relating to penalties imposed for the purposes of any taxation matter (including enactments relating to assessments, review and appeal) apply, with or without modifications, in relation to penalties under the regulations;
  - (c) to make different provision for different cases;
  - (d) to make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any of the regulations as the Commissioners think fit.
- (8) References in this section to the delivery of information include references to any of the following (however referred to)—
- (a) the production or furnishing to a person of any information, account, record or document;

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- (b) the giving, making, issue or surrender to, or service on, any person of any notice, notification, statement, declaration, certificate or direction;
  - (c) the imposition on any person of any requirement or the issue to any person of any request;
  - (d) the making of any return, claim, election or application;
  - (e) the amendment or withdrawal of anything mentioned in paragraphs (a) to (d) above.
- (9) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section—
- “the Inland Revenue” means—
    - (a) the Commissioners,
    - (b) any officer of the Commissioners, or
    - (c) any other person who for the purposes of electronic communications is acting under the authority of the Commissioners;
  - “legislation” means any enactment, Community legislation or subordinate legislation;
  - “specified” means specified by or under regulations under this section;
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30);
  - “taxation matter” means a taxation matter within the care and management of the Commissioners.

**Modifications etc. (not altering text)**

- C1** S. 135(8) applied by SI 2001/1004 reg. 90A(2) (as inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **23**)

**136 Use of electronic communications under other provisions**

- (1) Any power to make subordinate legislation for or in connection with the delivery of information conferred in relation to a taxation matter on—
- (a) the Commissioners of Inland Revenue, or
  - (b) the Treasury,
- includes power to make any such provision in relation to the delivery of that information as could be made in exercise of the power conferred by section 135.
- (2) Provision made in exercise of the powers conferred by section 135 or subsection (1) above has effect notwithstanding so much of any enactment or subordinate legislation as would otherwise—
- (a) allow information to be delivered otherwise than by means of electronic communications, or
  - (b) preclude the use of an intermediary in connection with its delivery.
- (3) Expressions used in this section and section 135 have the same meaning in this section as in that section.

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- (4) Nothing in this section shall be read as restricting the generality of the power conferred by section 135.

#### *Lorry road-user charge*

### **137 Lorry road-user charge**

- (1) A tax, to be known as lorry road-user charge, shall be charged in respect of use of roads by lorries.
- (2) The persons by whom lorry road-user charge shall be payable, the rates at which it shall be charged, and the lorries, roads and use in respect of which it shall be charged, shall be such as Parliament may determine.
- (3) The amount of lorry road-user charge charged in respect of use of any roads by a lorry shall be calculated, in such manner as Parliament may determine, by reference to the distance travelled on those roads by the lorry.
- (4) Lorry road-user charge shall be under the care and management of such Minister of the Crown or government department, and shall be administered and enforced in accordance with such provisions, as Parliament may determine.
- (5) All money and securities for money collected or received for or on account of lorry road-user charge shall be paid into the Consolidated Fund.
- (6) Subsection (5) does not apply if Parliament entrusts the care and management of lorry road-user charge to the Commissioners of Customs and Excise or the Commissioners of Inland Revenue (but see, in particular, section 10 of the Exchequer and Audit Departments Act 1866 as regards the revenues of the departments of those Commissioners).
- (7) A Minister of the Crown, or a government department, may incur expenditure for preparing for the introduction of lorry road-user charge.

#### *Registers of UK gilts*

### **138 Authority of Bank of England to discharge functions in place of Bank of Ireland**

- (1) The Bank of England has authority, in the event of the Bank of Ireland ceasing to perform any of its functions in relation to United Kingdom government stock, to discharge any of the Bank of Ireland's functions in relation to such stock in place of the Bank of Ireland.
- (2) The enactments relating to United Kingdom government stock have effect in relation to anything done in the circumstances mentioned in subsection (1) for the purposes of discharging any such functions—
- (a) as if any reference to the Bank of Ireland were a reference to the Bank of England, and
- (b) as if any reference to an officer of the Bank of Ireland were a reference to the corresponding officer of the Bank of England.
- (3) In particular, sections 59 and 66 of the National Debt Act 1870 (c. 71) (provisions protecting the Bank and its officers from liability) apply to the Bank of England and

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to officers of that Bank in relation to anything done in the circumstances mentioned in subsection (1) above for the purposes of discharging any functions of the Bank of Ireland in relation to United Kingdom government stock.

(4) In this section—

“enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30);

“United Kingdom government stock” means stock or bonds of any of the descriptions included in Part 1 of Schedule 11 to the Finance Act 1942 (c. 21) (whether on or after the passing of this Act).

(5) This section shall be deemed always to have had effect.

### **139 Closure of UK gilts registers kept in Ireland**

(1) The Treasury may by order made by statutory instrument provide—

- (a) that no further stock or bonds may be registered in either of the Irish gilts registers on or after such day as the order may appoint (“the appointed day”), and
- (b) for the transfer to the English gilts register of the entries subsisting in each of those registers at the beginning of the appointed day.

(2) The power conferred by subsection (1)(b) includes power to make provision in relation to stock and bonds which were not registered in either of the Irish gilts registers on the appointed day, but which should have been.

(3) An order under this section may contain such consequential, incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient, including provision amending, repealing or revoking any enactment.

(4) In subsection (3) “enactment” means any enactment contained in—

- (a) an Act, whenever passed, or
- (b) an instrument, whenever made, under an Act, whenever passed.

(5) In this section—

“the English gilts register” is the register required to be kept at the office of the Chief Registrar of the Bank of England under section 47 of the Finance Act 1942 (c. 21) (registration of government stock); and

“the Irish gilts registers” are—

- (a) the register required to be kept in Belfast under that section, and
- (b) the register required to be kept in Dublin under that section.

(6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

### **140 Administration of UK gilts**

(1) In section 47 of the Finance Act 1942 (transfer and registration of government stock)

- (a) for subsection (1)(b) (power to provide for the keeping of stock and bond registers by the Banks of England and Ireland) substitute—
  - “(b) for the administration of such stock and bonds (including the registration of holders) by such one or more persons as the

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Treasury may appoint in accordance with the regulations and the closure of any register;”,

and

(b) after subsection (1E) insert—

“(1EA) Persons appointed in accordance with regulations under subsection (1)(b) shall be appointed on such terms (including terms as to the making of payments by the Treasury) as the Treasury consider appropriate, and the persons who may be so appointed include the Bank of England.”.

- (2) The Treasury may by order made by statutory instrument make such consequential, incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient in consequence of the amendments made by subsection (1), including provision amending, repealing or revoking any enactment.
- (3) In subsection (2) “enactment” means any enactment contained in—
  - (a) an Act, whenever passed, or
  - (b) an instrument, whenever made, under an Act, whenever passed.
- (4) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Sums payable by the Treasury by virtue of section 47(1EA) of the Finance Act 1942 (c. 21) (as inserted by subsection (1) above) shall be met out of the National Loans Fund with recourse to the Consolidated Fund.
- (6) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

#### **Commencement Information**

**II** [S. 140](#) in force at 11.3.2004 by [S.I. 2004/689](#), [art. 2](#)

### *Supplementary*

#### **141 Repeals**

- (1) The enactments mentioned in Schedule 40 to this Act (which include provisions that are spent or of no practical utility) are repealed to the extent specified.
- (2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

#### **142 Interpretation**

In this Act “the Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (c. 1).

#### **143 Short title**

This Act may be cited as the Finance Act 2002.

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