



# Finance Act 2007

## 2007 CHAPTER 11

### PART 6

#### INVESTIGATION, ADMINISTRATION ETC

##### *Investigation etc*

#### **82 Criminal investigations: powers of Revenue and Customs**

- (1) Section 114 of the Police and Criminal Evidence Act 1984 (c. 60) (application of Act to customs and excise) is amended as follows.
- (2) In paragraph (a) of subsection (2)—
  - (a) for “investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ investigations conducted by officers of Revenue and Customs ”, and
  - (b) for “persons detained by officers of Customs and Excise;” substitute “ persons detained by officers of Revenue and Customs; ”.
- (3) In the opening words of paragraph (b) of that subsection, for “investigations of offences conducted by officers of Customs and Excise” substitute “ investigations of offences conducted by officers of Revenue and Customs ”.
- (4) In sub-paragraph (i) of that paragraph, for “section” substitute “ sections ”.
- (5) In the section 14A deemed to be inserted by that sub-paragraph—
  - (a) for “and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions, ” and
  - (b) in the heading, for “**Customs and Excise**” substitute “ **Revenue and Customs** ”.
- (6) After that section insert—

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**“14B Revenue and Customs: restriction on other powers to apply for production of documents**

- (1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in subsection (3) only if the condition in subsection (2) is satisfied.
- (2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.
- (3) The provisions are—
  - (a) section 20BA of, and Schedule 1AA to, the Taxes Management Act 1970 (serious tax fraud);
  - (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT);
  - (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax);
  - (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax);
  - (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy);
  - (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy);
  - (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax).”
- (7) In paragraph (c) of subsection (2)—
  - (a) for “customs detention” substitute “ Revenue and Customs detention ”, and
  - (b) for “an officer of Customs and Excise” substitute “ an officer of Revenue and Customs ”.
- (8) After that paragraph insert—
  - “(d) that where an officer of Revenue and Customs searches premises in reliance on a warrant under section 8 of, or paragraph 12 of Schedule 1 to, this Act (as applied by an order under this subsection) the officer shall have the power to search persons found on the premises—
    - (i) in such cases and circumstances as are specified in the order, and
    - (ii) subject to any conditions specified in the order; and
  - (e) that powers and functions conferred by a provision of this Act (as applied by an order under this subsection) may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs.”
- (9) After that subsection insert—
  - “(2A) A certificate of the Commissioners that an officer of Revenue and Customs had authority under subsection (2)(e) to exercise a power or function conferred by a provision of this Act shall be conclusive evidence of that fact.”
- (10) For subsection (3) substitute—
  - “(3) An order under subsection (2)—

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- (a) may make provision that applies generally or only in specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may, in modifying a provision, in particular impose conditions on the exercise of a function, and
- (d) shall not be taken to limit a power under section 164 of the Customs and Excise Management Act 1979.”

(11) The heading of section 114 accordingly becomes “ **Application of Act to Revenue and Customs** ”.

**Commencement Information**

**II** S. 82 in force at 8.11.2007 by [S.I. 2007/3166](#), [art. 2\(a\)](#)

### **83 Northern Ireland criminal investigations**

- (1) Article 85 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (application of Order to customs and excise) is amended as follows.
- (2) In sub-paragraph (a) of paragraph (1)—
- (a) for “investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ investigations conducted by officers of Revenue and Customs ”, and
  - (b) for “persons detained by officers of Customs and Excise;” substitute “ persons detained by officers of Revenue and Customs; ”.
- (3) In the opening words of sub-paragraph (b) of that paragraph, for “investigations of offences conducted by officers of Customs and Excise” substitute “ investigations of offences conducted by officers of Revenue and Customs ”.
- (4) In paragraph (i) of that sub-paragraph, for “Article” substitute “ Articles ”.
- (5) In the Article 16A deemed to be inserted by that paragraph—
- (a) for “and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions, ” and
  - (b) in the heading, for “**Customs and Excise**” substitute “ **Revenue and Customs** ”.
- (6) After that Article insert—

**“16B Revenue and Customs: restriction on other powers to apply for production of documents**

- (1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in paragraph (3) only if the condition in paragraph (2) is satisfied.

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- (2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.
- (3) The provisions are—
- (a) section 20BA of, and Schedule 1AA to, the Taxes Management Act 1970 (serious tax fraud);
  - (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT);
  - (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax);
  - (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax);
  - (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy);
  - (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy);
  - (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax)."
- (7) After sub-paragraph (b) of paragraph (1) insert—
- “(c) that where an officer of Revenue and Customs searches premises in reliance on a warrant under Article 10 of, or paragraph 9 of Schedule 1 to, this Order (as applied by an order under this paragraph) the officer shall have the power to search persons found on the premises—
- (i) in such cases and circumstances as are specified in the order, and
  - (ii) subject to any conditions specified in the order; and
- (d) that powers and functions conferred by a provision of this Order (as applied by an order under this paragraph) may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs.”
- (8) After that paragraph insert—
- “(1A) A certificate of the Commissioners that an officer of Revenue and Customs had authority under paragraph (1)(d) to exercise a power or function conferred by a provision of this Order shall be conclusive evidence of that fact.”
- (9) For paragraph (2) substitute—
- “(2) An order under paragraph (1)—
- (a) may, in modifying a provision, in particular impose conditions on the exercise of a function, and
  - (b) shall not be taken to limit a power under section 164 of the Customs and Excise Management Act 1979.”
- (10) The heading of Article 85 accordingly becomes “ **Application of Order to Revenue and Customs** ”.

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**Commencement Information**

**I2** S. 83 in force at 8.11.2007 by [S.I. 2007/3166](#), [art. 2\(b\)](#)

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## 84 Sections 82 and 83: supplementary

- (1) In Schedule 2 to CRCA 2005 (restrictions on the exercise of functions), omit—
  - (a) paragraph 7 (Police and Criminal Evidence Act 1984 (c. 60)), and
  - (b) paragraph 9 (Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))).
- (2) Nothing in section 6 or 7 of CRCA 2005 (initial functions) restricts the functions in connection with which officers of Revenue and Customs may exercise a power under—
  - (a) the Police and Criminal Evidence Act 1984 by virtue of section 114 of that Act (as amended by section 82 above), or
  - (b) the Police and Criminal Evidence (Northern Ireland) Order 1989 by virtue of Article 85 of that Order (as amended by section 83 above).
- <sup>F1</sup>(3) .....
- (4) Schedule 22 contains amendments and repeals consequential on extension of police powers to Revenue and Customs.
- (5) Sections 82 and 83 and this section come into force in accordance with provision made by the Treasury by order.
- (6) The power to make an order under subsection (5) is exercisable by statutory instrument.

### Textual Amendments

- F1** S. 84(3) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 18\(5\)](#), [58\(4\)\(6\)](#)

### Commencement Information

- I3** S. 84(1)-(3) (5) (6) in force at 8.11.2007 by [S.I. 2007/3166](#), [art. 2\(c\)](#)  
**I4** S. 84(4) in force at 1.12.2007 by [S.I. 2007/3166](#), [art. 3\(a\)](#)

## 85 Criminal investigations: Scotland

Schedule 23 contains provision for Scotland about the investigation of offences by Her Majesty's Revenue and Customs.

## 86 Search warrants

In section 8 of the Police and Criminal Evidence Act 1984, after subsection (6) insert—

“(7) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to a warrant issued on the application of an officer of Revenue and Customs under this section by virtue of section 114 below.”

## 87 Cross-border exercise of powers

- (1) This section relates to the Criminal Justice and Public Order Act 1994 (c. 33).

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- (2) Sections 136 to 139 (execution of warrants and powers of arrest and search) shall apply to an officer of Revenue and Customs as they apply to a constable; and for that purpose—
- (a) a reference to a constable (including a reference to a constable of a police force in England and Wales, a constable of a police force in Scotland or a constable of a police force in Northern Ireland) shall be treated as a reference to an officer of Revenue and Customs, and
  - (b) a reference to a police station, or a designated police station, includes a reference to an office of Revenue and Customs or (in England and Wales and Northern Ireland) a designated office of Revenue and Customs.
- [<sup>F2</sup>(2A) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence that is being investigated by an officer of Revenue and Customs—
- (a) subsection (2)(b) is to be read as if (instead of requiring the detention to be authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of at least the grade equivalent to the rank of inspector;
  - (b) subsection (2)(c) is to be read as if (instead of requiring the detention to be authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of a grade above that equivalent to the rank of inspector;
  - (c) subsection (3) is omitted;
  - (d) in subsections (4) and (5), the reference to an officer of the investigating force is to be read as a reference to an officer of Revenue and Customs;
  - (e) in subsection (6), the reference to an appropriate officer in the investigating force is to be read as a reference to an appropriate officer of Revenue and Customs (as defined by subsection (7));
  - (f) subsection (6)(a) is omitted;
  - (g) in subsection (7)(b), the reference to an officer of at least the rank of inspector is to be read as a reference to an officer of Revenue and Customs of at least the equivalent grade;
  - (h) in subsection (7)(c), the reference to an officer of a rank above that of inspector is to be read as a reference to an officer of Revenue and Customs of above the equivalent grade;
  - (i) subsections (8) to (10) are omitted.
- (2B) Where section 137C applies in accordance with subsection (2A), Schedule 7B applies with the following modifications—
- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
  - (b) any reference to an officer of at least, or above, a particular rank in the investigating force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
  - (c) any reference to the arresting force or to the investigating force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;

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- (d) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
  - (e) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.
- (2C) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence other than one that is being investigated by an officer of Revenue and Customs—
- (a) any reference to an officer of at least, or above, the rank of inspector in the arresting force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
  - (b) the reference in subsection (6)(a) to the arresting force is to be read as a reference to any officer of Revenue and Customs.
- (2D) Where section 137C applies in accordance with subsection (2C), Schedule 7B applies with the following modifications—
- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
  - (b) any reference to the arresting force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;
  - (c) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
  - (d) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.]
- [<sup>F3</sup>(2E) In the application of those sections to an officer of Revenue and Customs—
- (a) sections 136(4B) and 137(7B) apply with the omission of the words from “and, if the constable” to the end;
  - (b) section 137ZA applies with the omission of subsection (6).]
- <sup>F4</sup>(3) .....
- (4) An officer of Revenue and Customs may exercise a power under sections 136 to 139 [<sup>F5</sup>in the exercise of any function of the Commissioners for Her Majesty's Revenue and Customs or of officers of Revenue and Customs, within the meaning of the Commissioners for Revenue and Customs Act 2005 (see section 51(2) to (2B) of that Act) ] .
- (5) In subsection (2)—
- “office of Revenue and Customs” means premises wholly or partly occupied by Her Majesty's Revenue and Customs, and
  - “designated office of Revenue and Customs” has the meaning given by an order under section 114 of the Police and Criminal Evidence Act 1984 (c. 60) (power to extend provisions to HMRC) or, in Northern Ireland, by an order under Article 85 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (power to extend Order to HMRC).

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(6) In section 136, after subsection (8) insert—

“(9) Powers under this section and sections 137 to 139 may be exercised by an officer of Revenue and Customs in accordance with section 87 of the Finance Act 2007.”

#### Textual Amendments

- F2** S. 87(2A)-(2D) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 17 para. 9\(2\)](#); S.I. 2018/227, art. 2(g)
- F3** S. 87(2E) inserted (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), arts. 2(2)(d), [19\(3\)\(a\)](#) (with art. 19(2))
- F4** S. 87(3) repealed (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), arts. 2(2)(d), [19\(3\)\(b\)](#) (with art. 19(2))
- F5** Words in s. 87(4) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 118](#), 183(1)(5)(e); S.I. 2018/227, art. 2(f)

#### Filing dates

### 88 Personal tax returns

(1) Section 8 of TMA 1970 (personal tax return) is amended as follows.

(2) In subsection (1)(a), omit “, on or before the day mentioned in subsection (1A) below”.

(3) Omit subsection (1A).

(4) After subsection (1C) insert—

“(1D) A return under this section for a year of assessment (Year 1) must be delivered—

- (a) in the case of a non-electronic return, on or before 31st October in Year 2, and
- (b) in the case of an electronic return, on or before 31st January in Year 2.

(1E) But subsection (1D) is subject to the following two exceptions.

(1F) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered—

- (a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or
- (b) on or before 31st January (for an electronic return).

(1G) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.

(1H) The Commissioners—

- (a) shall prescribe what constitutes an electronic return, and
- (b) may make different provision for different cases or circumstances.”



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## **89 Trustee's tax return**

- (1) Section 8A of TMA 1970 (trustee's tax return) is amended as follows.
- (2) In subsection (1)(a), omit “, on or before the day mentioned in subsection (1A) below”.
- (3) Omit subsection (1A).
- (4) After subsection (1AA) insert—
  - “(1B) A return under this section for a year of assessment (Year 1) must be delivered—
    - (a) in the case of a non-electronic return, on or before 31st October in Year 2, and
    - (b) in the case of an electronic return, on or before 31st January in Year 2.
  - (1C) But subsection (1B) is subject to the following two exceptions.
  - (1D) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered—
    - (a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or
    - (b) on or before 31st January (for an electronic return).
  - (1E) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.
  - (1F) The Commissioners—
    - (a) shall prescribe what constitutes an electronic return, and
    - (b) may make different provision for different cases or circumstances.”

## **90 Partnership tax returns**

- (1) In section 12AA of TMA 1970, for subsection (4) (partnership return: filing date) substitute—
  - “(4) In the case of a partnership which includes one or more individuals, a notice under subsection (2) or (3) above may specify different days depending on whether a return in respect of a year of assessment (Year 1) is electronic or non-electronic.
  - (4A) The day specified for a non-electronic return must not be earlier than 31st October of Year 2.
  - (4B) The day specified for an electronic return must not be earlier than 31st January of Year 2.
  - (4C) But subsections (4A) and (4B) are subject to the following two exceptions.
  - (4D) Exception 1 is that if the notice is given after 31st July in Year 2 (but on or before 31st October)—
    - (a) the day specified for a non-electronic return must be after the end of the period of three months beginning with the date of the notice, and
    - (b) the day specified for an electronic return must not be earlier than 31st January.

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- (4E) Exception 2 is that if the notice is given after 31st October in Year 2, the day specified for a return (whether or not electronic) must be after the end of the period of three months beginning with the date of the notice.”
- (2) For subsection (5) of that section (partnership return where a company is a partner: filing date) substitute—
- “(5) In the case of a partnership which includes one or more companies, a notice may specify different dates depending on whether a notice in respect of a relevant period is electronic or non-electronic.
- (5A) The day specified for a non-electronic return must not be earlier than the end of the period of nine months beginning at the end of the relevant period.
- (5B) The day specified for an electronic return must not be earlier than the first anniversary of the end of the relevant period.
- (5C) But where the notice is given more than nine months after the end of the relevant period, the day specified for a return (whether or not electronic) must be after the end of the period of three months beginning with the date of the notice.
- (5D) For the purposes of this section “relevant period” means the period in respect of which the return is required.
- (5E) The Commissioners—
- (a) shall prescribe what constitutes an electronic return for the purposes of this section, and
  - (b) may make different provision for different cases or circumstances.”

## 91 Consequential amendments

- (1) In section 9(2) of TMA 1970 (returns to include self-assessment)—
- (a) in paragraph (a), for “30th September” substitute “ 31st October ”, and
  - (b) in paragraph (b), for “31st July” substitute “ 31st August ”.
- (2) In section 9ZA of TMA 1970 (amendment of personal or trustee return), for subsection (3) substitute—
- “(3) In this section “the filing date”, in respect of a return for a year of assessment (Year 1), means—
- (a) 31st January of Year 2, or
  - (b) if the notice under section 8 or 8A is given after 31st October of Year 2, the last day of the period of three months beginning with the date of the notice.”
- (3) In section 9A(6) of TMA 1970 (notice of enquiry: “the filing date”), for the words from “means” to the end substitute “ means, in relation to a return, the last day for delivering it in accordance with section 8 or 8A. ”
- <sup>F6</sup>(4) .....
- (5) In section 28C of TMA 1970 (determination of tax where no return delivered), for subsection (6) substitute—

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- “(6) In this section “the filing date” in respect of a return for a year of assessment (Year 1) means either—
- (a) 31st January of Year 2, or
  - (b) if the notice under section 8 or 8A was given after 31st October of Year 2, the last day of the period of three months beginning with the day on which the notice is given.”
- (6) In section 33A of TMA 1970 (error in partnership return)—
- (a) in subsection (1), insert at the end “ for a year of assessment (Year 1), or for a relevant period which ends in Year 1 ”,
  - <sup>F7</sup>(b) . . . . .
  - (c) in subsection (9), omit the definition of “filing date”, and
  - (d) in that subsection, after the definition of “relevant partner” insert—  
  
    ““relevant period” means a period in respect of which a return is required.”
- (7) In section 93(10) of TMA 1970 (penalty for failure to make individual or trustee return), for the definition of “filing date” substitute—
- ““the filing date” in respect of a return for a year of assessment (Year 1) means—
- (a) 31st January of Year 2, or
  - (b) if the notice under section 8 or 8A was given after 31st October of Year 2, the last day of the period of three months beginning with the day on which the notice is given.”
- (8) In section 93A of TMA 1970 (failure to make partnership return), after subsection (7) insert—
- “(7A) For the purposes of this section the filing date for a year of assessment (Year 1) in the case of a partnership which includes one or more individuals is—
- (a) 31st January of Year 2, or
  - (b) if the notice under section 12AA was given after 31st October of Year 2, the last day of the period of three months beginning with the date of the notice.
- (7B) For the purposes of this section the filing date for a year of assessment (Year 1) in the case of a partnership which includes one or more companies is—
- (a) the first anniversary of the period for which the return is required, or
  - (b) where the notice is given more than nine months after the end of the period for which the return is required, the last day of the period of three months beginning with the date of the notice.”
- (9) In subsection (8) of section 93A, omit the definition of “the filing date”.
- (10) In paragraph 4 of Schedule 15 to FA 2006 (accountancy change: spreading of adjustment)—
- (a) in sub-paragraph (1), after “a tax year” insert “ (Year 1) ”, and
  - (b) in sub-paragraph (2), for “normal self-assessment filing date for the tax year.” substitute “ 31st January of Year 2. ”

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### Textual Amendments

- F6** S. 91(4) omitted (with effect in accordance with Sch. 22 para. 2(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 22 para. 2\(2\)\(b\)](#)
- F7** S. 91(6)(b) omitted (1.4.2010) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 65\(e\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)

## 92 Commencement

- (1) Sections 88 to 91 have effect—
- (a) in relation to a return under section 8 or 8A of TMA 1970, or a return under section 12AA of that Act for a partnership which includes one or more individuals, in respect of a return for a year of assessment beginning on or after 6th April 2007, and
  - (b) in relation to a return under section 12AA of that Act for a partnership which includes one or more companies, in respect of a return for a relevant period beginning on or after 6th April 2007.
- (2) In subsection (1)(b) “relevant period” means a period in respect of which a return is required.

### *Other administration*

## 93 Mandatory electronic filing of returns

- (1) Section 135 of FA 2002 (mandatory electronic filing) is amended as follows.
- (2) In subsection (7), after paragraph (b) insert—
- “(ba) to specify other consequences of contravention of, or failure to comply with, the regulations (which may include disregarding a return delivered otherwise than by the use of electronic communications);”.
- (3) In subsection (10), for the definition of “taxation matter” substitute—
- ““taxation matter” means any matter relating to a tax (or duty) for which the Commissioners are responsible.”
- (4) Section 76 of VATA 1994 (assessment) is amended as follows.
- (5) In subsection (1), after paragraph (c) insert—
- “or
- (d) a penalty under regulations made under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT.”.
- (6) In that subsection, before “may have ceased” insert “ or the regulations ”.
- (7) In subsection (3), insert at the end—
- “; and

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- (f) in the case of a penalty under regulations made under section 135 of the Finance Act 2002, the relevant period is the prescribed accounting period in respect of which the contravention of, or failure to comply with, the regulations occurred.”
- (8) In section 83 of VATA 1994 (appeals), after paragraph (zb) insert—
  - “(zc) a decision of the Commissioners about the application of regulations under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT (including, in particular, a decision as to whether a requirement of the regulations applies and a decision to impose a penalty);”.
- (9) In section 84 of VATA 1994 (appeals), after subsection (6A) insert—
  - “(6B) Nothing in section 83(zc) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under regulations made under section 135 of the Finance Act 2002.”

#### **94 Mandatory electronic payment**

- (1) Section 204 of FA 2003 (mandatory electronic payment by large employers) is amended as follows.
- (2) For subsections (1) and (2) substitute—
  - “(1) The Commissioners for Her Majesty's Revenue and Customs may make regulations requiring a person to use electronic means in making specified payments under legislation relating to a tax (or duty) for which the Commissioners are responsible.
  - (2) The regulations may provide for exceptions.”
- (3) In subsection (5)(b), for “the Inland Revenue” substitute “ Her Majesty's Revenue and Customs ”.
- (4) In subsection (6)(a), for “the Inland Revenue” substitute “ Her Majesty's Revenue and Customs ”.
- (5) In subsection (8)—
  - (a) in paragraph (a), for “a contravention of, or any failure to comply with,” substitute “ a contravention by a large employer of, or any failure by a large employer to comply with, ”, and
  - (b) in paragraph (b), for “taxation matter within the care and management of the Commissioners” substitute “ matter relating to a tax (or duty) for which the Commissioners are responsible ”.
- (6) In subsection (12)—
  - (a) for the definition of “the Inland Revenue” substitute—
    - ““Her Majesty's Revenue and Customs” includes a person acting under the authority of the Commissioners in relation to payment by electronic means;”, and
  - (b) after that definition insert—

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““large employer” means a person paying PAYE income to 250 or more recipients (and regulations under this section may make provision as to the date or period by reference to which this is to be determined and the circumstances in which a person is to be treated as paying PAYE income to a recipient);”.

- (7) The heading accordingly becomes “ **Mandatory electronic payment** ”.
- (8) In section 205(1) of FA 2003 (application of section 204 for other purposes)—
- (a) after “taxation” insert “ (or duty) ”, and
  - (b) for “the Commissioners of Inland Revenue” substitute “ the Commissioners for Her Majesty's Revenue and Customs ”.

## 95 Payment by cheque

- (1) The Commissioners may make regulations providing for a payment to HMRC made by cheque to be treated as made when the cheque clears, as defined in the regulations.
- (2) Section 70A of TMA 1970 (payment by cheque treated as made on receipt by HMRC) is subject to regulations under subsection (1).
- (3) Regulations under subsection (1)—
- (a) may make provision generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, consequential or transitional provision.
- (4) Regulations under subsection (1)—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) In this section—
- (a) “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs, and
  - (b) “HMRC” means Her Majesty's Revenue and Customs.
- (6) In section 204 of FA 2003 (electronic payment), insert at the end—
- “(13) Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in contravention of regulations under this section to be treated as made when the cheque clears, as defined in the regulations under that section.”
- (7) In section 70A of TMA 1970 (payments by cheque), insert at the end—
- “(3) This section is subject to regulations under section 95(1) of the Finance Act 2007 (payment by cheque).”
- (8) In VATA 1994, after section 58A insert—

### “58B Payment by cheque

Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in

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contravention of regulations under section 25(1) above to be treated as made when the cheque clears, as defined in the regulations under section 95(1) of that Act.”

## 96 Enquiry into returns

- (1) In section 9A(2)(a) of TMA 1970 (period during which HMRC can open enquiry into return), for “after the filing date;” substitute “ after the day on which the return was delivered; ”.
- (2) In section 12AC(2)(a) of TMA 1970 (period during which HMRC can open enquiry into partnership return), for “after the filing date;” substitute “ after the day on which the return was delivered; ”.
- (3) In paragraph 24(2) of Schedule 18 to FA 1998 (period during which HMRC can open enquiry into company tax return), for “from the filing date.” substitute “ from the day on which the return was delivered (subject to sub-paragraph (6)). ”
- (4) In paragraph 24 of that Schedule, insert at the end—
  - “(6) In the case of a company which is a member of a group other than a small group, the 12-month period in sub-paragraph (2) shall start not from the day on which the return was delivered but from the filing date.
  - (7) In sub-paragraph (6) “group” and “small group” have the same meaning as in sections 383(2) and 474(1) of the Companies Act 2006 (or, until their commencement, as in the provisions that they replicate).”
- (5) The amendments made by subsections (1) and (2) apply to returns which relate to the tax year 2007-08 or a later tax year.
- (6) The amendments made by subsections (3) and (4) apply to returns which relate to accounting periods ending after 31st March 2008.

## 97 Penalties for errors

- (1) Schedule 24 contains provisions imposing penalties on taxpayers who—
  - (a) make errors in certain documents sent to HMRC, or
  - (b) unreasonably fail to report errors in assessments by HMRC.
- (2) That Schedule comes into force in accordance with provision made by the Treasury by order.
- (3) An order—
  - (a) may commence a provision generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, consequential or transitional provision.
- (4) The power to make an order is exercisable by statutory instrument.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 993 modified by [2016 c. 24 s. 118\(2\)](#)
- Sch. 24 para. 12(5)(za) inserted by [2015 c. 11 Sch. 20 para. 6\(a\)](#)
- Sch. 24 para. 21A(A1) inserted by [2015 c. 11 Sch. 20 para. 7\(2\)](#)
- Sch. 24 para. 4A(A1)(1) substituted for Sch. 24 para. 4A(1) by [2015 c. 11 Sch. 20 para. 3\(2\)](#)