



# Finance Act 2008

## 2008 CHAPTER 9

### PART 8

#### MISCELLANEOUS

##### *Inheritance tax*

#### **140 Charge on termination of interest in possession where new interest acquired**

- (1) In section 53 of IHTA 1984 (exceptions from charge on termination of interest in possession), for subsection (2A) substitute—

“(2A) Subsection (2) above applies by virtue of the person becoming beneficially entitled on or after 12 March 2008 to another interest in possession in the property only if that other interest is—

- (a) a disabled person's interest, or
- (b) a transitional serial interest;

and that is the case irrespective of whether the person's beneficial entitlement to the interest in possession in the property which comes to an end is one which began before, or on or after, 22 March 2006.”

- (2) The amendment made by subsection (1) is treated as having come into force on 22 March 2006 (so that paragraph 14(3) of Schedule 20 to FA 2006 is treated as never having had effect).

#### **141 Interest in possession settlements: extension of transitional period**

- (1) In Chapter 2 of Part 3 of IHTA 1984 (interests in possession etc)—

- (a) in section 49C (transitional serial interest: interest to which person becomes entitled on or after 22 March 2006 and before 6 April 2008), in subsection (3) and in the heading,

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- (b) in section 49D (transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6 April 2008), in subsection (3) and in the heading, and
  - (c) in section 49E (transitional serial interest: contracts of life insurance), in subsection (3),
- for “April” substitute “ October ”.
- (2) The amendments made by subsection (1) are treated as having come into force on 6 April 2008.

### *Insurance premium tax*

#### **142 Tax representatives**

- (1) In Part 3 of FA 1994 (insurance premium tax), omit the following provisions (which relate to tax representatives)—
- (a) sections 57 and 58,
  - (b) in section 65(1), paragraph (b) and the “and” before it,
  - (c) in section 73(1), the definition of “tax representative”, and
  - (d) in Schedule 7, paragraph 18 and, in paragraph 20, “, 18(2)”.
- (2) In consequence of the repeals made by subsection (1), omit sections 27(4) and (5) of FA 1997.

#### **143 Overseas insurers**

- (1) Section 65 of FA 1994 (insurance premium tax: liability of insured where insurer not established in United Kingdom) is amended as follows.
- (2) In subsection (1), for the words after “time” substitute “the insurer—
- (a) does not have any business establishment or other fixed establishment in the United Kingdom, and
  - (b) is established in a country or territory in respect of which it appears to the Commissioners that the condition in subsection (1A) below is met.”
- (3) After that subsection insert—
- “(1A) The condition mentioned in subsection (1)(b) above is that—
- (a) the country or territory is neither a member State nor a part of a member State, and
  - (b) there is no provision for mutual assistance between the United Kingdom and the country or territory similar in scope to the assistance provided for between the United Kingdom and each other member State by the mutual assistance provisions.
- (1B) In subsection (1A) above “the mutual assistance provisions” means—
- (a) section 134 of, and Schedule 39 to, the Finance Act 2002 (recovery of taxes etc due in other member States), and
  - (b) section 197 of the Finance Act 2003 (exchange of information between tax authorities of member States).”

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### *Vehicle excise duty*

#### **144 Rebates**

- (1) VERA 1994 is amended as follows.
- (2) In section 10 (transfer and surrender of vehicle licences), omit subsections (2) and (3) and, in the heading, “**and surrender**”.
- (3) For section 19 (rebates on surrender of licences) substitute—

#### **“19 Rebates**

- (1) If the relevant person makes an application to the Secretary of State under this subsection for a rebate of the duty paid on a vehicle licence in force for a vehicle, the person is entitled to receive from the Secretary of State the amount specified in subsection (2).
- (2) That amount is an amount equal to one-twelfth of the annual rate of duty chargeable on the licence (at the time when it was taken out) in respect of each complete month of the period of the currency of the licence which is unexpired when the application is made.
- (3) An application under subsection (1) may only be made if—
  - (a) the vehicle has been stolen,
  - (b) the vehicle has been destroyed and the Secretary of State is notified of that,
  - (c) an application for a nil licence for the vehicle is made in accordance with regulations under section 22,
  - (d) the vehicle is neither used nor kept on a public road and the particulars and declaration required to be furnished and made by regulations under section 22(1D) are furnished and made in relation to it in accordance with the regulations,
  - (e) the vehicle has been sold or disposed of and the particulars prescribed by regulations under section 22(1)(d) are furnished in relation to it in accordance with the regulations, or
  - (f) the vehicle has been removed from the United Kingdom with a view to its remaining permanently outside the United Kingdom and the Secretary of State is notified of that.
- (4) In subsection (1) “the relevant person” means the person in whose name the vehicle is registered at the time when the application is made; but in a case within subsection (3)(e) also includes the person in whose name it was registered immediately before being sold or disposed of.
- (5) The Secretary of State may specify conditions which must be complied with by a person before making an application under subsection (1).
- (6) The conditions that may be specified include (in particular)—
  - (a) a condition requiring the surrender of the licence,
  - (b) a condition requiring that particulars which are required to be furnished to the Secretary of State are transmitted to the Secretary of State by such electronic means as may be specified, and

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- (c) in a case within subsection (3)(a), conditions relating to the reporting to the police that the vehicle has been stolen.
- (7) Where an application is made under subsection (1) and the licence is not surrendered on the making of the application, it ceases to be in force when the application is made.
- (8) Where a trade licence is surrendered to the Secretary of State under section 14(2), the holder of the licence is entitled to receive from the Secretary of State (by way of rebate of the duty paid on the licence) an amount equal to one-twelfth of the annual rate of duty chargeable on the licence (at the time when it was taken out) in respect of each complete month of the period of the currency of the licence which is unexpired at the date of the surrender.”
- (4) In section 22(1D) (requirement to furnish particulars etc in certain circumstances), omit paragraph (a) (surrender under section 10(2)).
- (5) In—
  - (a) section 31(7)(a),
  - (b) section 31B(9)(a)(i), and
  - (c) section 31C(7)(a),
 (meaning of “expiry”), after “surrender” insert “ or ceasing to be in force under section 19(7) ”.
- (6) In consequence of the amendment made by subsection (3), omit section 14 of FA 2001.
- (7) The amendments made by this section come into force on 1 January 2009.

#### **145 Offence of using or keeping unlicensed vehicle**

Schedule 45 contains provision in relation to the offence of using or keeping an unlicensed vehicle.

#### **146 Rates for new lower-emission vans**

- (1) Part 1B of Schedule 1 to VERA 1994 (annual rates of duty: light goods vehicles) is amended as follows.
- (2) In paragraph 1J(a) and (b) (rates), after “a” insert “ pre-2007 or post-2008 ”.
- (3) In paragraph 1K (meaning of “lower-emission van”), for “ “lower-emission van”” substitute “pre-2007 lower-emission van” .
- (4) After paragraph 1L insert—

“1M

For the purposes of paragraph 1J, a vehicle to which this Part of this Schedule applies is a “post-2008 lower-emission van” if—

- (a) the vehicle is first registered on or after 1 January 2009 and before 1 January 2011,
- (b) it is a vehicle to which Regulation (EC) No 715/2007 of the European Parliament and of the Council applies (see Article 2 of that Regulation),
- (c) it is powered by a compression ignition engine, and

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- (d) the emissions from it do not exceed any of the emission limit values specified in Table 1 of Annex 1 to that Regulation in relation to vehicles so powered.”

#### **147 Not exhibiting licence: period of grace**

In section 33 of VERA 1994 (not exhibiting licence), after subsection (1A) insert—

“(1B) A person is not guilty of an offence under subsection (1) or (1A) by using or keeping a vehicle on a public road during any of the 5 working days following the time when a licence or nil licence for the vehicle, or a relevant declaration applying to the vehicle, ceases to be in force, if an application for a licence or nil licence for or in respect of the vehicle to run from that time has been received before that time.

(1C) In subsection (1B) “working day” means any day other than—

- (a) a Saturday or Sunday, or
- (b) a day which is Christmas Eve, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(1D) For the purposes of subsection (1B)—

- (a) there is a relevant declaration applying to a vehicle if the particulars and declaration required to be furnished and made by regulations under section 22(1D) have been furnished and made in relation to the vehicle in accordance with the regulations, and
- (b) the relevant declaration ceases to be in force if, after the particulars and declaration have been furnished and made—
  - (i) the vehicle is used or kept on a public road (otherwise than under a trade licence), or
  - (ii) the period of 12 months beginning with the day on which the particulars and declaration were furnished and made expires.”

#### **148 Reduced pollution certificates**

(1) Section 61B of VERA 1994 (certificates as to reduced pollution) is amended as follows.

(2) In subsection (1), after paragraph (b) insert—

“(ba) for the production of information and making of declarations for the purposes of a determination (including provision about the person to whom, and the time at which and manner in which, the information is to be produced and the declarations are to be made);”.

(3) In paragraph (c) of that subsection, for “examination of an eligible vehicle, for the purposes of the determination mentioned in paragraph (b),” substitute “ Secretary of State to specify cases in which a determination is to be made only after an examination of an eligible vehicle ”.

(4) In paragraph (d) of that subsection, for “for such an examination” substitute “ in respect of a determination ”.

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- (5) In paragraph (e) of that subsection, for “on a prescribed examination,” substitute “ in accordance with the regulations, ”.
- (6) In subsection (3)—
- (a) in paragraph (a), for “in accordance with the regulations” substitute “ (or, if not previously examined, examined) in accordance with the regulations (“a post-certification examination”) ”,
  - (b) in paragraph (b), for “such a re-examination” substitute “ a post-certification examination ”, and
  - (c) in paragraph (c), for “the prescribed re-examination” substitute “ a post-certification examination ”.

*Climate change levy and landfill tax*

**149 Climate change levy: coal mine methane no longer to be renewable source**

- (1) In paragraph 19 of Schedule 6 to FA 2000 (exemption: electricity from renewable sources), omit sub-paragraph (4A) (coal mine methane to be regarded as renewable source).
- (2) Accordingly, omit—
  - (a) section 126 of FA 2002 (which inserted sub-paragraph (4A)), and
  - (b) regulation 47(2A) of the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838).
- (3) The repeals and revocation made by this section have effect in relation to electricity generated on or after 1 November 2008.

**150 Climate change levy accounting documents: abolition of self-identification**

In paragraph 143(2) of Schedule 6 to FA 2000 (requirements to be met by invoice if it is to be a “climate change levy accounting document”), omit paragraph (a) (requirement that it must state that it is a climate change levy accounting document).

**151 Landfill tax credit: withdrawing approval of environmental bodies**

- (1) Part 3 of FA 1996 (landfill tax) is amended as follows.
- (2) In section 53(4)(d) (withdrawal of approval of environmental body or regulatory body), for “approval of an environmental body or the regulatory body to be withdrawn” substitute “ the withdrawal of approval of an environmental body by the Commissioners or by the regulatory body, and the withdrawal of approval of the regulatory body by the Commissioners, ”.
- (3) In section 54(1) (review of Commissioners' decisions), after paragraph (c) insert—
  - “(ca) a decision to withdraw approval of an environmental body under any provision contained in regulations by virtue of section 53(4)(d) above;”.
- (4) The amendments made by this section are treated as having come into force on 19 March 2008.

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### *Aviation*

#### **152 Aviation duty**

The Commissioners for Her Majesty's Revenue and Customs may incur expenditure in preparing for the introduction of a new duty chargeable in respect of flights by aircraft.

#### **153 Air passenger duty: class of travel with large seat pitch**

(1) In section 30 of FA 1994 (rate of air passenger duty), after subsection (10) insert—

“(11) But a class of travel is not standard class travel if the seats for passengers whose agreement for carriage provides for that class of travel have a pitch exceeding 1.016 metres (40 inches).

(12) For this purpose “pitch”, in relation to a seat, means the distance between a fixed point on the seat and the same point on the seat immediately in front of it; but where there is no seat immediately in front of the seat, the seat is to be treated as having the same pitch as the seat immediately behind it.”

(2) The amendment made by subsection (1) has effect in relation to any carriage of a passenger on an aircraft which begins on or after 1 November 2008.

### *Alternative finance arrangements*

#### **154 Stamp duty and stamp duty reserve tax: alternative finance investment bonds**

(1) FA 1986 is amended as follows.

(2) In section 78(7) (stamp duty: loan capital), after paragraph (c) insert—

“(d) any capital raised under arrangements which fall within section 48A of the Finance Act 2005 (alternative finance investment bonds).”

(3) In section 79 (loan capital: instruments not chargeable to stamp duty), after subsection (8) insert—

“(8A) In the application of this section to loan capital that falls within paragraph (d) of section 78(7) (alternative finance investment bonds)—

(a) subsection (6) has effect as if—

(i) paragraph (a) were omitted, and

(ii) for paragraph (c) there were substituted—

“(c) a right at the end of the bond term (within the meaning of section 48A(1) of the Finance Act 2005) to a payment of an amount that exceeds the aggregate of—

(i) the amount paid for the issue of the bond, and

(ii) the notional payment amount;

and for this purpose the “notional payment amount” means the amount of the payments that would represent a reasonable commercial return (within the meaning of

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- section 48A(1) of the Finance Act 2005) on the bond over the bond term, less the amount of the payments actually made.”,
- (b) subsections (6)(b), (7), (7A), (7B) and (13) have effect as if references to interest were references to additional payments (“additional payments” having the same meaning as in section 48A of the Finance Act 2005), and
- (c) subsections (7B) and (13) also have effect as if—
- (i) references to a capital market investment were references to the loan capital falling within paragraph (d) of section 78(7), and
- (ii) references to a capital market arrangement were to the arrangements under which that loan capital is raised.”
- (4) In section 99 (stamp duty reserve tax: interpretation), after subsection (9) insert—
- “(9A) But “unit trust scheme” does not include arrangements falling within section 48A of the Finance Act 2005 (alternative finance investment bonds).”
- (5) The amendments made by subsections (2) and (3) have effect in relation to instruments executed on or after the day on which this Act is passed (and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 are made).
- (6) The amendment made by subsection (4) has effect in relation to—
- (a) agreements to transfer chargeable securities made on or after the day on which this Act is passed, and
- (b) the transfer, issue or appropriation of chargeable securities after that day in pursuance of an agreement made after that day;
- (and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 [<sup>F1</sup>or section 507 of CTA 2009] are made).

#### Textual Amendments

- F1** Words in s. 154(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 732** (with Sch. 2 Pts. 1, 2)

## 155 Alternative property finance: anti-avoidance

- (1) FA 2003 is amended as follows.
- (2) For the heading of section 73A substitute “ **Sections 71A to 73: relationship with Schedule 7** ”.
- (3) After section 73A insert—

### **“73AB Sections 71A to 72A: arrangements to transfer control of financial institution**

- (1) Section 71A, 72 or 72A does not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.



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- (2) That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as the happening of an event or doing of an act).
- (3) In this section—
  - “alternative finance arrangements” means the arrangements referred to in section 71A(1), 72(1) or 72A(1);
  - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - “connected arrangements” means any arrangements entered into in connection with the making of the alternative finance arrangements (including arrangements involving one or more persons who are not parties to the alternative finance arrangements);
  - “relevant financial institution” means the financial institution which enters into the alternative finance arrangements.
- (4) Section 840 of the Taxes Act 1988 applies for the purposes of determining who has control of the relevant financial institution.”
- (4) The amendment made by subsection (3) has effect in relation to alternative finance arrangements entered into on or after 12 March 2008.

## **156 Alternative finance arrangements: power to vary Chapter 5 of Part 2 of FA 2005**

- (1) Section 98 of FA 2006 (alternative finance arrangements: variation of Chapter 5 of Part 2 of FA 2005 by order) is amended as follows.
- (2) For the heading substitute “ **Orders amending Chapter 5 of Part 2 of FA 2005** ”.
- (3) For subsection (1) substitute—
  - “(1) The Treasury may by order amend Chapter 5 of Part 2 of FA 2005 (alternative finance arrangements).
  - (1A) The amendments that may be made by an order under subsection (1) include—
    - (a) the variation of provision already included in Chapter 5, and
    - (b) the introduction into Chapter 5 of new provision relating to alternative finance arrangements.”
- (4) For subsection (3) substitute—
  - “(3) An order under this section shall be made by statutory instrument.
  - (4) If a statutory instrument containing an order under this section—
    - (a) introduces into Chapter 5 of Part 2 of FA 2005 new provision relating to alternative finance arrangements, or
    - (b) amends an enactment which is not contained in that Chapter, but is contained in an Act,it shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

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- (5) In any other case, a statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) In this section “alternative finance arrangements” means arrangements which in the Treasury's opinion—
  - (a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest, and
  - (b) achieve a similar effect without including provision for the payment of interest.”

### **157 Government borrowing: alternative finance arrangements**

- (1) The Treasury may by regulations make provision for raising money through alternative finance arrangements.
- (2) Regulations under subsection (1) must specify the purpose or purposes for which money may be raised through each kind of alternative finance arrangements that, under regulations under subsection (1), is available for raising money.
- (3) The Treasury may not raise money through a particular kind of alternative finance arrangements unless, in the Treasury's opinion, raising the money would be in accordance with the provision made under subsection (2) in relation to that kind of arrangements.
- (4) Regulations under subsection (2) may, in particular, specify a purpose or purposes for which money may be raised under the National Loans Act 1968 (c. 13).
- (5) Money to be raised under regulations made under this section—
  - (a) may be raised either within or outside the United Kingdom, and
  - (b) may be raised either in sterling or in any other currency or medium of exchange, whether national or international.
- (6) Subsection (5) is subject to provision made in or under the regulations.
- (7) Schedule 46 contains further provision about regulations under this section.
- (8) In this section and Schedule 46 “alternative finance arrangements” means arrangements which in the Treasury's opinion—
  - (a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest (including the issuance of government securities), but
  - (b) achieve a similar effect to such a transaction without including provision for the payment of interest.

#### *Payments from Exchequer accounts*

### **158 Power of Treasury to make payments**

- (1) This section applies if a person makes a claim which, in the Treasury's opinion, is a financial claim that concerns an Exchequer account.
- (2) The Treasury may pay money from any Exchequer account—

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- (a) to satisfy the claim (in whole or in part), or
  - (b) to enable the claim to be satisfied (in whole or in part) from another government account.
- (3) The reference in this section to a financial claim that concerns an Exchequer account includes, in particular, either of the following cases.
- (4) The first case is where a financial claim relates to—
- (a) a case where money is paid into a government account, but the money should not have, or need not have, been paid into that account, or
  - (b) a case where money should have been, or needed to be, paid out of a government account, but the money—
    - (i) was not paid out of that account, or
    - (ii) was paid out of that account, but not as it should have been, or needed to be, paid.
- (5) The second case is where a financial claim relates to the exercise of functions that relate to an Exchequer account (whether the functions are exercisable by the Treasury or another person).
- (6) In this section—
- “Exchequer account” means—
    - (a) the Consolidated Fund,
    - (b) the Debt Management Account,
    - (c) the Exchange Equalisation Account, or
    - (d) the National Loans Fund;
  - and a reference to an Exchequer account includes a reference to the assets or liabilities of the account;
  - “financial claim” means a claim (whether or not legally enforceable) for the payment of an amount of money, including a claim in respect of—
    - (a) money paid or not paid by any person,
    - (b) interest earned or not earned by any person, or
    - (c) loss, costs or expenses incurred by any person;
  - “government account” means—
    - (a) an Exchequer account, or
    - (b) any other account in which money is held by or on behalf of Her Majesty's Government in the United Kingdom.

### **159 Payments from certain Exchequer accounts: mechanism**

- (1) This section applies to money to be paid under section 158 from—
- (a) the Consolidated Fund, or
  - (b) the National Loans Fund.
- (2) In the case of the Consolidated Fund—
- (a) the Comptroller and Auditor General shall on receipt of a requisition from the Treasury grant a credit on the Exchequer Account at the Bank of England (or on its growing balance), and
  - (b) an issue shall be made on orders given to the Bank by the Treasury in accordance with a credit granted under paragraph (a).

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- (3) An issue made under subsection (2) shall be recorded in the daily account under section 15(5) of the Exchequer and Audit Departments Act 1866 (c. 39).
- (4) In the case of the National Loans Fund—
  - (a) the Comptroller and Auditor General shall at the request of the Treasury grant a credit on the National Loans Fund, and
  - (b) a payment out of the Fund shall be made by the Treasury in accordance with a credit granted under paragraph (a).
- (5) A payment made under subsection (4) shall be recorded in the daily account under section 1(2) of the National Loans Act 1968 (c. 13).

*Other matters*

**160 Power to give statutory effect to concessions**

- (1) The Treasury may by order make provision for and in connection with giving effect to any existing HMRC concession.
- (2) “Existing HMRC concession” means a statement made by the Commissioners for Her Majesty’s Revenue and Customs before the passing of this Act, and having effect at that time, that they will treat persons as if they were entitled to—
  - (a) a reduction in a liability to a tax or duty, or
  - (b) any other concession relating to a tax or duty,
 to which they are not, or may not be, entitled in accordance with the law.
- (3) For this purpose “statement” means a statement of any sort, whether it was described as an extra-statutory concession, a statement of practice, an interpretation, a decision or a press release or in any other way.
- (4) The reference in subsection (2) to the Commissioners for Her Majesty’s Revenue and Customs includes the Commissioners of Inland Revenue and the Commissioners of Customs and Excise.
- (5) An order under this section—
  - (a) may give effect to an existing HMRC concession with or without modification,
  - (b) may include supplementary, incidental, consequential or transitional provision, and
  - (c) may include provisions amending (or repealing or revoking) any enactment or instrument (whenever passed or made).
- (6) The power to make an order under this section is exercisable by statutory instrument.
- (7) No order is to be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.

**161 Fuel duty: definition of “ultra low sulphur diesel”**

- (1) In section 1(6) of HODA 1979 (definition of “ultra low sulphur diesel”), omit paragraphs (b) and (c) (but not the “and” at the end of paragraph (c)).

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- (2) The amendment made by subsection (1) is treated as having come into force on 4 September 2007.

**162 Duties: abolition of disregard of fractions of penny**

In section 137 of CEMA 1979 (calculation of excise duty etc), omit subsection (4) (fractions of penny to be disregarded in calculation of duty).

**163 National savings**

- (1) Section 10 of the National Debt Act 1972 (c. 65) (national savings stamps and gift tokens) is amended as follows.

(2) In subsection (2), after “tokens; and” insert “ (subject to regulations under subsection (2A)) ”.

- (3) After that subsection insert—

“(2A) Where the Treasury has issued a sum to the National Debt Commissioners under subsection (2), it may by regulations require them to repay to the National Loans Fund, in the way specified in the regulations, so much of that sum as may be specified in, or determined in accordance with, the regulations.”

**164 EU emissions trading: criminal offences**

- (1) Section 16 of FA 2007 (EU emissions trading: charges for allocations) is amended as follows.

(2) In subsection (4)(c), for “imposition and recovery of penalties” substitute “ creation of criminal offences, or for the imposition and recovery of civil penalties, ”.

- (3) After subsection (6) insert—

“(6A) Subsection (4)(c) does not permit the creation of a criminal offence with maximum penalties in excess of the maximum penalties which an instrument under section 2(2) of the European Communities Act 1972 may provide in respect of an offence created by such an instrument.”

**Status:**

Point in time view as at 13/08/2009.

**Changes to legislation:**

Finance Act 2008, Part 8 is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.