



Value Added Tax Act 1994

1994 CHAPTER 23

PART IV U.K.

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Default surcharges and other penalties and criminal offences

67 Failure to notify and unauthorised issue of invoices. U.K.

(1) In any case where—

- (a) a person fails to comply with any of paragraphs 5, 6 [F1,7] and 14(2) and (3) of Schedule 1 with paragraph 3 of Schedule 2 or with paragraph 3 or 8(2) of Schedule 3, or
- (b) a person fails to comply with a requirement of regulations under paragraph 2(4) of Schedule 11, or
- (c) an unauthorised person issues one or more invoices showing an amount as being VAT or as including an amount attributable to VAT,

he shall be liable, subject to subsections (8) and (9) below, to a penalty equal to the specified percentage of the relevant VAT or, if it is greater or the circumstances are such that there is no relevant VAT, to a penalty of £50.

(2) In subsection (1)(c) above, “an unauthorised person” means anyone other than—

- (a) a person registered under this Act; or
- (b) a body corporate treated for the purposes of section 43 as a member of a group; or
- (c) a person treated as a taxable person under regulations made under section 46(4); or
- (d) a person authorised to issue an invoice under regulations made under paragraph 2(12) of Schedule 11; or
- (e) a person acting on behalf of the Crown.

(3) In subsection (1) above “relevant VAT” means (subject to subsections (5) and (6) below)—

Status: Point in time view as at 30/06/1997. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 67. (See end of Document for details)

- (a) in relation to a person's failure to comply with paragraph 5 ^[F2], 6 or 7] of Schedule 1, paragraph 3 of Schedule 2 or paragraph 3 of Schedule 3, the VAT (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on the date on which the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered; and
 - (b) in relation to a person's failure to comply with sub-paragraph (2) or (3) of paragraph 14 of Schedule 1 or with sub-paragraph (2) of paragraph 8 of Schedule 3, the VAT (if any) for which, but for any exemption from registration, he would be liable for the period beginning on the date of the change or alteration referred to in that sub-paragraph and ending on the date on which the Commissioners received notification of, or otherwise became fully aware of, that change or alteration; and
 - (c) in relation to a person's failure to comply with a requirement of regulations under paragraph 2(4) of Schedule 11, the VAT on the acquisition to which the failure relates; and
 - (d) in relation to the issue of one or more invoices as are referred to in subsection (1)(c) above, the amount which is, or the aggregate of the amounts which are—
 - (i) shown on the invoice or invoices as VAT, or
 - (ii) to be taken as representing VAT.
- (4) For the purposes of subsection (1) above the specified percentage is—
- (a) ^[F3]5 per cent.] where the relevant VAT is given by subsection (3)(a) or (b) above and the period referred to in that paragraph does not exceed 9 months or where the relevant VAT is given by subsection (3)(c) above and the failure in question did not continue for more than 3 months;
 - (b) ^[F4]10 per cent.] where that VAT is given by subsection (3)(a) or (b) above and the period so referred to exceeds 9 months but does not exceed 18 months or where that VAT is given by subsection (3)(c) and the failure in question continued for more than 3 months but did not continue for more than 6 months; and
 - (c) ^[F5]15 per cent.] in any other case.
- (5) Where—
- (a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant VAT in relation to a failure mentioned in subsection (3)(a) above includes VAT on an acquisition of goods from another member State; and
 - (b) the Commissioners are satisfied that VAT has been paid under the law of another member State on the supply in pursuance of which those goods were acquired,
- then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of that member State; and the amount of the allowance shall not exceed the amount of VAT due on the acquisition but shall otherwise be equal to the amount of VAT which the Commissioners are satisfied has been paid on that supply under the law of that member State.
- (6) Where—
- (a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant VAT in relation to a failure

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mentioned in subsection (3)(a) above includes VAT chargeable by virtue of section 7(4) on any supply; and

- (b) the Commissioners are satisfied that VAT has been paid under the law of another member State on that supply,

then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of the other member State; and the amount of the allowance shall not exceed the amount of VAT chargeable by virtue of section 7(4) on that supply but shall otherwise be equal to the amount of VAT which the Commissioners are satisfied has been paid on that supply under the law of that other member State.

- (7) This section shall have effect in relation to any invoice which—
- (a) for the purposes of any provision made under section 54(3) shows an amount as included in the consideration for any supply, and
- (b) either—
- (i) fails to comply with the requirements of any regulations under that section; or
- (ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,
- as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to VAT.
- (8) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for his conduct.
- (9) Where, by reason of conduct falling within subsection (1) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
- (b) a person is assessed to a penalty under section 60,
- that conduct shall not also give rise to liability to a penalty under this section.
- (10) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sum for the time being specified in subsection (1) above such other sum as appears to them to be justified by the change.
- (11) An order under subsection (10) above shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.

Textual Amendments

- F1** Word in s. 67(1)(a) inserted (29.4.1996 with effect as mentioned in s. 37(2)(3) of the amending Act) by 1996 c. 8, s. 37(1)(a)
- F2** Words in s. 67(3)(a) substituted (29.4.1996 with effect as mentioned in s. 37(2)(3) of the amending Act) by 1996 c. 8, s. 37(1)(b)
- F3** Words in s. 67(4)(a) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(a)
- F4** Words in s. 67(4)(b) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(b)
- F5** Words in s. 67(4)(c) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(c)

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Modifications etc. (not altering text)

C1 S. 67 amended (29.4.1996) by 1996 c. 8, s. 37(3)

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Changes to legislation:

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