

*Status: Point in time view as at 01/04/2010.*

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## SCHEDULES

### SCHEDULE 6 **U.K.**

Section 40.

#### AIR PASSENGER DUTY: ADMINISTRATION AND ENFORCEMENT

##### *Application of excise enactments*

- 1 (1) The <sup>M1</sup>Customs and Excise Management Act 1979 shall have effect for the purposes of Chapter IV of Part I of this Act in relation to—
- (a) any person who is or is liable to be registered,
  - (b) any fiscal representative, and
  - (c) any handling agent where a notice given to him under section 37 of this Act is effective,
- as it has effect in relation to revenue traders, but with the modifications mentioned in sub-paragraph (2), and paragraphs 3 and 4, below.
- (2) That Act shall have effect, in relation to any person to whom sub-paragraph (1) above applies, as if—
- (a) the reference in section 112(1) (power of entry) to vehicles included aircraft,
  - (b) section 116 (payment of duty) were omitted,
  - (c) in section 117 (execution and distress)—
    - (i) the references to goods liable to any excise duty included tickets, and
    - (ii) the references to the trade in respect of which duty is imposed were to the trade or business by virtue of which sub-paragraph (1) above applies to him, and
  - (d) any power under section 118B(1)(b) to require any person who is or is liable to be registered to produce or cause to be produced any such documents as are referred to in that subsection included power to require his fiscal representative to produce them.

#### Marginal Citations

**M1** 1979 c. 2.

- 2 Section 118B of that Act shall have effect for the purposes of Chapter IV of Part I of this Act in relation to any person who, in the course of a trade or business carried on by him, issues or arranges for the issue of tickets as if—
- (a) he were a revenue trader, and
  - (b) the references to services supplied by or to him in the course or furtherance of a business were to services supplied by or to him in the course of issuing or arranging for the issue of tickets.
- 3 (1) A notice may require any person to whom paragraph 1 above applies to furnish, at specified times and in the specified form, any such information to the Commissioners as he could be required by the Commissioners to furnish under subsection (1) of

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section 118B; and any such requirement shall have effect as a requirement under that subsection.

(2) A notice may require any person to whom paragraph 1 or 2 above applies to produce or cause to be produced for inspection by an officer, at specified places and times, any such documents as he could be required by the officer to produce under that subsection; and any such requirement shall have effect as a requirement under that subsection.

(3) In this paragraph—

“notice” means a notice published, and not withdrawn, by the Commissioners, and

“specified” means specified in such a notice.

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In relation to any person to whom paragraph 1 or 2 above applies—

(a) that Act shall have effect as if “document” had the same meaning as in Chapter IV of Part I of this Act, and

(b) that Act and this Schedule shall have effect as if any reference to the production of any document, in the case of information recorded otherwise than in legible form, were to producing a copy of the information in legible form.

### *Information*

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(1) Any person having the management of an airport shall, if required to do so by the Commissioners—

(a) give notice to the Commissioners, within such time and in such form as they may reasonably require, stating whether or not he holds or has at any time held any information relating to the matters mentioned in sub-paragraph (3) below and, if he does or has done, stating the general nature of the information, and

(b) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to such matters as they may reasonably specify.

(2) Any such person shall, if required to do so by an officer, produce any documents relating to those matters, or cause them to be produced, for inspection by that officer.

(3) The matters referred to in sub-paragraphs (1) and (2) above are—

(a) whether or not any aircraft is a chargeable aircraft,

(b) who is the operator of any aircraft,

(c) whether or not any person is a handling agent of the operator of any aircraft, and

(d) whether or not any duty is payable on the carriage of any person and, if so, the amount of duty.

(4) Documents produced under sub-paragraph (2) above shall be produced, at such time as the officer may reasonably require, at the principal place of business of the person required to produce them or cause them to be produced or at such other place as the officer may reasonably require.

(5) An officer may take copies of, or make extracts from, any document produced under this paragraph.

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- (6) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under this paragraph.
- (7) Where an officer removes a document under sub-paragraph (6) above, then—
  - (a) if the person from whom it is removed so requests, the officer shall give him a receipt for the document,
  - (b) if the document is reasonably required for the proper conduct of any business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced, and
  - (c) if the document is lost or damaged, the Commissioners shall be liable to compensate the owner for any expenses reasonably incurred by him in replacing or repairing it.
- (8) Any reference in this paragraph to the production of a document, in the case of information recorded otherwise than in legible form, is to producing a copy of the information in legible form.
- (9) Any failure by a person having the management of an airport to comply with a requirement imposed under this paragraph shall attract a penalty under section 9 of this Act.

#### *Application of Chapter II*

- 6 An appeal which relates to duty shall not be entertained under section 16 of this Act at any time if any return [<sup>F1</sup>for an accounting period to which the appeal relates] which the appellant is required by regulations made by virtue of section 38 of this Act to make has not at that time been made.

#### **Textual Amendments**

- F1** Words in Sch. 6 para. 6 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 209\(2\)](#)

#### *Interest payable to Commissioners*

- 7 (1) Where an assessment of duty due from any person (“the person assessed”) is made under section 12 of this Act and any of the conditions in sub-paragraph (2) below is fulfilled, the whole of the amount assessed shall, subject to paragraph 8 below, carry interest at [<sup>F2</sup>the rate applicable under section section 197 of the Finance Act 1996] from the reckonable date until payment.
- (2) The conditions are—
  - (a) that the assessment relates to an accounting period in respect of which either a return has previously been made or an earlier assessment has already been notified to the person assessed, or
  - (b) that the assessment relates to an accounting period which exceeds one month and begins on the date on which the person assessed was, or became liable to be, registered.
- (3) In a case where—

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- (a) the circumstances are such that an assessment of duty due from any person could have been made and, if it had been made, the conditions in sub-paragraph (2) above would have been fulfilled, but
- (b) before such an assessment was made the duty was paid (so that no such assessment was necessary),

the whole of the amount paid shall carry interest at [<sup>F2</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until the date on which it was paid.

- (4) In this paragraph and paragraph 8 below the “reckonable date” means the latest date on which a return is required to be made under Chapter IV of Part I of this Act for the accounting period to which the amount assessed or paid relates; and interest under this paragraph shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the <sup>M2</sup>Bills of Exchange Act 1882.
- (5) Interest under this paragraph shall be paid without any deduction of income tax.

#### Textual Amendments

**F2** Words in Sch. 6 para. 7(1)(3) substituted (29.4.1996 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(a); S.I. 1997/1015, art. 2

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

**C1** Sch. 6 para. 7: power to amend conferred (29.4.1996 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(1)(2); S.I. 1997/1015, art. 2

#### Marginal Citations

**M2** 1882 c. 61.

- 8 (1) Where on an appeal by any person (“the appellant”) to a tribunal under section 16 of this Act against an assessment of duty—
  - (a) it is found that the whole or any part of the duty was due from him, and
  - (b) the amount due, or any part of that amount, has not been paid and no cash security has been given for it,
 that amount or, as the case may be, that part of it shall carry interest [<sup>F3</sup>at the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment.
- (2) In sub-paragraph (1) above, “cash security” means such adequate security as enables the Commissioners to place the amount in question on deposit.
- (3) Interest under this paragraph shall be paid without any deduction of income tax.

#### Textual Amendments

**F3** Words in Sch. 6 para. 8(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 209\(3\)](#) (with Sch. 3 para. 9(2)(c))

*Interest payable by the Commissioners*

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**Textual Amendments**

**F4** Sch. 6 para. 9 repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 20, **Sch. 33 Pt. I(4)**, Note; S.I. 2001/3300, **art. 2** (with **art. 3**)

<sup>F5</sup>10 .....

**Textual Amendments**

**F5** Sch. 5 para. 10 repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 20, **Sch. 33 Pt. I(4)**, Note; S.I. 2001/3300, **art. 2** (with **art. 3**)

*Interest: specified rate*

<sup>F6</sup>11 .....

**Textual Amendments**

**F6** Sch. 6 para. 11 repealed (29.4.1996 with effect as mentioned in s. 197(7) of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VIII(1)**, Note; S.I. 1997/1015, **art. 2**

*[<sup>F7</sup> Assessment of interest]*

**Textual Amendments**

**F7** Sch. 6: Cross-heading and para. 11A inserted (1.5.1995 with application as mentioned in s. 16(4) of the amending Act) by 1995 c. 4, s. 16(1)

[<sup>F8</sup>11A(1) Where by virtue of paragraph 7 above duty due from any person for an accounting period carries interest, the Commissioners may assess that person to an amount of interest in accordance with this paragraph.

- (2) Notice of the assessment shall be given to the person liable for the interest or a representative of his.
- (3) The amount of the interest shall be calculated by reference to a period ending on a date (“the due date”) no later than the date of the notice.
- (4) The notice shall specify—
  - (a) the amount of the duty which carries the interest assessed (“the specified duty”);
  - (b) the amount of the interest assessed (“the specified interest”);
  - (c) the due date; and
  - (d) a date by which that amount is required to be paid (“the payment date”).
- (5) Sub-paragraphs (6) and (7) below apply where the specified duty or any part of it is unpaid on the date of the notice.
- (6) If the unpaid amount or any part of it is paid by the payment date, the payment shall be treated for the purposes of paragraph 7 above as made on the due date.

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- (7) To the extent that the unpaid amount is not paid by the payment date, an assessment may be made under this paragraph in respect of any interest on the unpaid amount which accrues after the due date.
- (8) For the purposes of sub-paragraphs (6) and (7) above, a payment—
- (a) which purports to be a payment of the unpaid amount or any part of it, but
  - (b) which is insufficient to discharge both the liability to pay the unpaid amount and the liability to pay the specified interest,
- shall be treated as made in discharge (or partial discharge) of the liability to pay the specified interest before it is treated as discharging to any extent the liability to pay the unpaid amount.
- (9) A notice of interest assessed under this paragraph may be combined in one document with notification of an assessment under section 12 of this Act which relates to the specified duty.
- (10) A notice which is so combined must comply with the requirements of this paragraph which relate to a notice which is not so combined.
- (11) The specified interest shall be recoverable as if it were duty due from the person assessed to that interest.
- (12) For the purposes of this paragraph a person is a representative of another if—
- (a) he is that other's personal representative;
  - (b) he is that other's trustee in bankruptcy or is a receiver or liquidator appointed in relation to that other or in relation to any of his property; or
  - (c) he is a person acting in some other representative capacity in relation to that other.]

#### Textual Amendments

- F8** Sch. 6: Cross-heading and para. 11A inserted (1.5.1995 with application as mentioned in s. 16(4) of the amending Act) by 1995 c. 4, s. 16(1) (with Sch. 8 paras. 55(2) 57(1))

#### *Evidence by certificate*

- 12 (1) A certificate of the Commissioners—
- (a) that a person was or was not, on any date specified in the certificate, registered or liable to be registered under section 33 of this Act,
  - (b) that the name of any person was or was not, on any date so specified, shown as the fiscal representative of any person in the register kept under that section,
  - (c) that any aircraft was or was not, on any date so specified, a chargeable aircraft,
  - (d) that any return required to be made under regulations made by virtue of section 38 of this Act had not, on any date so specified, been made, or
  - (e) that any duty shown as due in such a return, or in an assessment under section 12 of this Act, had not, on any date so specified, been paid,
- shall be sufficient evidence of that fact until the contrary is proved.

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- (2) A photograph of any document furnished to the Commissioners for the purposes of Chapter IV of Part I of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be taken to be such a certificate until the contrary is proved.

#### *Preferential debt*

13 <sup>F9</sup>(1) .....

<sup>F9</sup>(2) .....

- (3) [<sup>F10</sup>In Schedule 4 to the <sup>M3</sup>Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5B there shall be inserted—

“5C Any amount which is due by way of air passenger duty from the debtor at the relevant date and which became due within the period of six months next before that date.”]

#### **Textual Amendments**

**F9** Sch. 6 para. 13(1)(2) repealed (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); [S.I. 2003/2093](#), art. 2(1), [Sch. 2](#) (with art. 4)

**F10** Sch. 6 para. 13(3) repealed (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455\)](#), art. 1(3), [Sch. 9](#); [S.R. 2006/21](#), art. 2 (subject to [S.R. 2006/22](#), arts. 2-7)

#### **Marginal Citations**

**M3** [S.I. 1989/2405 \(N.I. 19\)](#)

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