

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: Finance Act 1994, SCHEDULE 7 is up to date with all changes known to be in force on or before 14 June 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. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 64.

#### INSURANCE PREMIUM TAX

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

**C1** Sch. 7 extended (19.3.1997) by 1997 c. 16, s. 50, Sch. 5 Pt. I paras. 1, 4(2)

#### PART I

##### INFORMATION

###### *Records*

- 1 (1) Regulations may require registrable persons to keep records.
- (2) Regulations under sub-paragraph (1) above may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Regulations may require any records kept in pursuance of the regulations to be preserved for such period not exceeding six years as may be specified in the regulations.
- (4) Any duty under regulations to preserve records may be discharged by the preservation of the information contained in them by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall (subject to the following provisions of this paragraph) be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
- (5) The Commissioners may, as a condition of approving under sub-paragraph (4) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (6) A statement contained in a document produced by a computer shall not by virtue of sub-paragraph (4) above be admissible in evidence—
  - <sup>F1</sup>(a) .....
  - (b) in criminal proceedings in England and Wales, except in accordance with <sup>F2</sup>... Part II of the <sup>M1</sup>Criminal Justice Act 1988;
  - (c) in civil proceedings in Scotland, except in accordance with sections 5 and 6 of the <sup>M2</sup>Civil Evidence (Scotland) Act 1988;

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- (d) in criminal proceedings in Scotland, except in accordance with [<sup>F3</sup>Schedule 8 to the Criminal Procedure (Scotland) Act 1995];
- (e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the <sup>M3</sup>Civil Evidence Act (Northern Ireland) 1971;
- (f) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the <sup>M4</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the <sup>M5</sup>Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.

#### Textual Amendments

- F1** Sch. 7 para. 1(6)(a) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6)(4)(5), 14); S.I. 1996/3217, **art. 2**
- F2** Words in Sch. 7 para. 1(6)(b) repealed (14.4.2000) by 1999 c. 23, s. 67, **Sch. 6**; S.I. 2000/1034, **art. 2**, **Sch.**
- F3** Words in Sch. 7 para. 1(6)(d) substituted (1.4.1996) by 1995 c. 40, **ss. 5, 7(2)**, SCh. 4 para. 89(4)

#### Marginal Citations

- M1** 1988 c. 33.
- M2** 1988 c. 32.
- M3** 1971 c. 36 (N.I.).
- M4** S.I.1989/1341 (N.I.12).
- M5** S.I.1988/1847 (N.I.17).

#### *Other provisions*

- 2 (1) Every person who is concerned (in whatever capacity) in [<sup>F4</sup>an insurance business] shall furnish to the Commissioners such information relating to [<sup>F4</sup>contracts of insurance] entered into in the course of the business as the Commissioners may reasonably require.
- (2) Every person who makes arrangements for other persons to enter into any [<sup>F4</sup>contract of insurance] shall furnish to the Commissioners such information relating to that contract as the Commissioners may reasonably require.
- (3) Every person who—
- (a) is concerned in a business that is not [<sup>F4</sup>an insurance business], and
  - (b) has been involved in the entry into any [<sup>F4</sup>contract of insurance] providing cover for any matter associated with the business,
- shall furnish to the Commissioners such information relating to that contract as the Commissioners may reasonably require.
- (4) The information mentioned in sub-paragraph (1), (2) or (3) above shall be furnished within such time and in such form as the Commissioners may reasonably require.

#### Textual Amendments

- F4** Words in Sch. 7 para. 2(1)-(3) substituted (1.5.1995 with application in relation to contracts whether entered into before or after the passing of the amending Act) by 1995 c. 4, s. 34, **Sch. 5 para. 7**

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- 3 (1) Every person who is concerned (in whatever capacity) in [<sup>F5</sup>an insurance business] shall upon demand made by an authorised person produce or cause to be produced for inspection by that person any documents relating to [<sup>F5</sup>contracts of insurance] entered into in the course of the business.
- (2) Every person who makes arrangements for other persons to enter into any [<sup>F5</sup>contract of insurance] shall upon demand made by an authorised person produce or cause to be produced for inspection by that person any documents relating to that contract.
- (3) Every person who—
- (a) is concerned in a business that is not [<sup>F5</sup>an insurance business], and
  - (b) has been involved in the entry into any [<sup>F5</sup>contract of insurance] providing cover for any matter associated with the business,
- shall upon demand made by an authorised person produce or cause to be produced for inspection by that person any documents relating to that contract.
- (4) Where, by virtue of any of sub-paragraphs (1) to (3) above, an authorised person has power to require the production of any documents from any person, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (5) The documents mentioned in sub-paragraphs (1) to (4) above shall be produced—
- (a) at the principal place of business of the person on whom the demand is made or at such other place as the authorised person may reasonably require, and
  - (b) at such time as the authorised person may reasonably require.
- (6) An authorised person may take copies of, or make extracts from, any document produced under any of sub-paragraphs (1) to (4) above.
- (7) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under any of sub-paragraphs (1) to (4) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (4) above the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.
- (8) Where a document removed by an authorised person under sub-paragraph (7) above is reasonably required for the proper conduct of a business he 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.
- (9) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

#### Textual Amendments

- F5** Words in [Sch. 7 para. 3\(1\)-\(3\)](#) substituted (1.5.1995 with application in relation to contracts whether entered into before or after the passing of the amending Act) by [1995 c. 4, s. 34](#), [Sch. 5 para. 7](#)

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## PART II

### POWERS

#### *Entry, arrest, etc.*

- 4 (1) For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) In a case where—
- (a) a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, or
  - (b) in Scotland a justice, within the meaning of [F<sup>6</sup>section 308 of the Criminal Procedure (Scotland) Act 1995], is satisfied by evidence on oath as mentioned in paragraph (a) above,
- he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and search them.
- (3) A person who enters the premises under the authority of the warrant may—
- (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature;
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;
- but no woman or girl shall be searched except by a woman.
- (4) The powers conferred by a warrant under this paragraph shall not be exercisable—
- (a) by more than such number of authorised persons as may be specified in the warrant,
  - (b) outside such times of day as may be so specified, or
  - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.
- (5) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—
- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
  - (b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person;
  - (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

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- (6) Where an authorised person has reasonable grounds for suspecting that a fraud offence has been committed he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.
- (7) In this paragraph “a fraud offence” means an offence under any provision of paragraph 9(1) to (5) below.

#### Textual Amendments

**F6** Words in Sch. 7 para. 4(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 89(4)(b)

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

**C2** Sch. 7 para. 4(3): power of seizure extended (*prosp.*) by 2001 c. 16, ss. 50-55, 68, 138(2), Sch. 1 Pt. 1 para. 57

*[<sup>F7</sup> Order for access to recorded information etc.]*

#### Textual Amendments

**F7** Sch. 7 para. 4A and the preceding cross-heading inserted (1.5.1995) by 1995 c. 4, s. 34, Sch. 5 para. 8(1)

- <sup>F8</sup>4A (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the <sup>M6</sup>Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with tax is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person, he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
  - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 3 and 4 above.

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#### Textual Amendments

**F8** Sch. 7 para. 4A and the preceding cross-heading inserted (1.5.1995) by 1995 c. 4, s. 34, Sch. 5 para. 8(1)

#### Marginal Citations

**M6** 1975 c. 21.

#### *Removal of documents etc.*

- 5 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 4 [<sup>F9</sup> or 4A] above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be allowed access to anything which—
- (a) has been removed by an authorised person, and
  - (b) is retained by the Commissioners for the purposes of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to allow access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation,
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed, or

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- (c) any criminal proceedings which may be brought as a result of the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge.

#### Textual Amendments

**F9** Words in [Sch. 7 para. 5\(1\)](#) inserted (1.5.1995) by [1995 c. 4, s. 34, Sch. 5 para. 8\(2\)](#)

- 6 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 5 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall be made—
- (a) in the case of a failure to comply with any of the requirements imposed by sub-paragraphs (1) and (2) of paragraph 5 above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
- (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
- (b) in Scotland, the sheriff;
- (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the <sup>M7</sup>Magistrates’ Court (Northern Ireland) Order 1981.
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the <sup>M8</sup>Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

#### Marginal Citations

**M7** [S.I. 1981/1675 \(N.I.26\)](#).

**M8** [1954 c. 33 \(N.I.\)](#).

### PART III

#### RECOVERY

##### *Recovery of tax etc.*

- 7 (1) Tax due from any person shall be recoverable as a debt due to the Crown.

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- (2) In the <sup>M9</sup>Insolvency Act 1986, in section 386(1) (preferential debts) the words “ insurance premium tax, ” shall be inserted after “VAT, ” and in Schedule 6 (categories of preferential debts) the following paragraph shall be inserted after paragraph 3—

“3A Any insurance premium tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).

For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any insurance premium tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
- (b) in any other case the amount of any insurance premium tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1994.”

- (3) In the <sup>M10</sup>Bankruptcy (Scotland) Act 1985, Schedule 3 (preferred debts) shall be amended as mentioned in sub-paragraphs (4) and (5) below.

- (4) In paragraph 2 the following sub-paragraph shall be inserted after sub-paragraph (1)

“(1A) Any insurance premium tax which is referable to the period of six months next before the relevant date.”

- (5) The following shall be inserted after paragraph 8—

*“ Periods to which insurance premium tax referable*

8A (1) For the purpose of paragraph 2(1A) of Part I of this Schedule—

- (a) where the whole of the accounting period to which any insurance premium tax is attributable falls within the period of six months next before the relevant date (“the relevant period”), the whole amount of that tax shall be referable to the relevant period; and
- (b) in any other case the amount of any insurance premium tax which shall be referable to the relevant period shall be the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the relevant period.

(2) In sub-paragraph (1) above “accounting period” shall be construed in accordance with Part III of the Finance Act 1994.”

- (6) In the <sup>M11</sup>Insolvency (Northern Ireland) Order 1989, in Article 346(1) (preferential debts) the words “ insurance premium tax ” shall be inserted after “VAT” and in Schedule 4 (categories of preferential debts) the following paragraph shall be inserted after paragraph 3—

“3A Any insurance premium tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).



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For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any insurance premium tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
- (b) in any other case the amount of any insurance premium tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1994.”

- F10(7) .....
- F10(8) .....
- F10(9) .....
- F10(10) .....
- F10(11) .....
- F10(12) .....

**Textual Amendments**

**F10** Sch. 7 para. 7(7)-(12) repealed (1.7.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. V(2)**; S.I. 1997/1433, **art. 2**

**Marginal Citations**

- M9** 1986 c. 45.
- M10** 1985 c. 66.
- M11** S.I. 1989/2405 (N.I. 19).

*Recovery of overpaid tax*

- 8 (1) Where a person has paid an amount to the Commissioners by way of tax which was not tax due to them, they shall be liable to repay the amount to him.
- (2) The Commissioners shall only be liable to repay an amount under this paragraph on a claim being made for the purpose.
- (3) It shall be a defence, in relation to a claim under this paragraph, that repayment of an amount would unjustly enrich the claimant.
- [F11(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than three years before the making of the claim.]
- (6) A claim under this paragraph shall be made in such form and manner and shall be supported by such documentary evidence as may be prescribed by regulations.
- (7) Except as provided by this paragraph, the Commissioners shall not be liable to repay an amount paid to them by way of tax by virtue of the fact that it was not tax due to them.

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#### Textual Amendments

**F11** Sch. 7 para. 8(4) substituted for para. 8(4)(5) (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. II para. 5(2)**

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

**C3** Sch. 7 para. 8(3): power to modify conferred (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. I paras. 1(1)(b), 3**

**C4** Sch. 7 para. 8(3) amended (19.3.1997) by 1997 c. 16, **Sch. 5 Pt. I**

## PART IV

### PENALTIES

#### *Criminal offences*

- 9 (1) A person is guilty of an offence if—
- (a) being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or another registrable person, or
  - (b) not being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by a registrable person.
- (2) Any reference in sub-paragraph (1) above to the evasion of tax includes a reference to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act.
- (3) A person is guilty of an offence if with the requisite intent—
- (a) he produces, furnishes or sends, or causes to be produced, furnished or sent, for the purposes of this Part of this Act any document which is false in a material particular, or
  - (b) he otherwise makes use for those purposes of such a document;
- and the requisite intent is intent to deceive or to secure that a machine will respond to the document as if it were a true document.
- (4) A person is guilty of an offence if in furnishing any information for the purposes of this Part of this Act he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.
- (5) A person is guilty of an offence by virtue of this sub-paragraph if his conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this paragraph; and the preceding provisions of this sub-paragraph apply whether or not the particulars of that offence or those offences are known.
- (6) A person is guilty of an offence if—
- (a) he enters into a taxable insurance contract, or
  - (b) he makes arrangements for other persons to enter into a taxable insurance contract,
- with reason to believe that tax in respect of the contract will be evaded.

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- (7) A person is guilty of an offence if he enters into taxable insurance contracts without giving security (or further security) he has been required to give under paragraph 24 below.

*Criminal penalties*

- 10 (1) A person guilty of an offence under paragraph 9(1) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) The reference in sub-paragraph (1) above to the amount of the tax shall be construed, in relation to tax itself or a payment falling within paragraph 9(2) above, as a reference to the aggregate of—
- (a) the amount (if any) falsely claimed by way of credit, and
  - (b) the amount (if any) by which the gross amount of tax was falsely understated.
- (3) A person guilty of an offence under paragraph 9(3) or (4) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or, where sub-paragraph (4) below applies, to the alternative penalty there specified if it is greater, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (4) In a case where—
- (a) the document referred to in paragraph 9(3) above is a return required under this Part of this Act, or
  - (b) the information referred to in paragraph 9(4) above is contained in or otherwise relevant to such a return,
- the alternative penalty is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit and the amount (if any) by which the gross amount of tax was understated.
- (5) A person guilty of an offence under paragraph 9(5) above shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or (if greater) three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both;
- and paragraph 9(2) and sub-paragraph (2) above shall apply for the purposes of this sub-paragraph as they apply respectively for the purposes of paragraph 9(1) and sub-paragraph (1) above.
- (6) A person guilty of an offence under paragraph 9(6) above shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.

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- (7) A person guilty of an offence under paragraph 9(7) above shall be liable on summary conviction to a penalty of level 5 on the standard scale.
- (8) In this paragraph—
- (a) “credit” means credit for which provision is made by regulations under section 55 of this Act;
  - (b) “the gross amount of tax” means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 55(3) of this Act.

*Criminal proceedings etc.*

- 11 Sections 145 to 155 of the <sup>M12</sup>Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under paragraph 9 above and penalties imposed under paragraph 10 above as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.

**Marginal Citations**

M12 1979 c. 2.

*Civil penalties*

- 12 (1) In a case where—
- (a) for the purpose of evading tax, a registrable person does any act or omits to take any action, and
  - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable to a penalty equal to the amount of tax evaded, or (as the case may be) sought to be evaded, by his conduct; but this is subject to sub-paragraph (7) below.
- (2) The reference in sub-paragraph (1)(a) above to evading tax includes a reference to obtaining a payment under regulations under section 55(3)(c) or (d) or (f) of this Act in circumstances where the person concerned is not entitled to the sum.
- (3) The reference in sub-paragraph (1) above to the amount of tax evaded or sought to be evaded is a reference to the aggregate of—
- (a) the amount (if any) falsely claimed by way of credit, and
  - (b) the amount (if any) by which the gross amount of tax was falsely understated.
- (4) In this paragraph—
- (a) “credit” means credit for which provision is made by regulations under section 55 of this Act;
  - (b) “the gross amount of tax” means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 55(3) of this Act.
- (5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in sub-paragraph (6) below by reason only that it has been drawn to his attention—

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- (a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
- (b) that the Commissioners or, on appeal, an appeal tribunal have power under paragraph 13 below to reduce a penalty under this paragraph,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (6) The proceedings referred to in sub-paragraph (5) above are—
- (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and
- (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.
- (7) Where, by reason of conduct falling within sub-paragraph (1) above, a person is convicted of an offence (whether under this Part of this Act or otherwise) that conduct shall not also give rise to liability to a penalty under this paragraph.
- 13 (1) Where a person is liable to a penalty under paragraph 12 above the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in sub-paragraph (4) below shall be matters which the Commissioners or any appeal tribunal shall be entitled to take into account in exercising their powers under this paragraph.
- (4) Those matters are—
- (a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;
- (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax.
- 14 (1) A person who fails to comply with section 53(2) [<sup>F12</sup>or 53AA(3)] of this Act shall be liable to a penalty equal to 5 per cent. of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £250; but this is subject to sub-paragraphs (3) and (4) below.
- (2) In sub-paragraph (1) above “relevant tax” means the tax (if any) for which the person concerned is liable for the period which—
- (a) begins on the date with effect from which he is, in accordance with section 53 [<sup>F13</sup>or, as the case may be, section 53AA] of this Act, required to be registered, and
- (b) ends on the date on which the Commissioners received notification of his liability to be registered.

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- (3) Conduct falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his conduct.
- (4) Where, by reason of conduct falling within sub-paragraph (1) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 12 above,
- that conduct shall not also give rise to liability to a penalty under this paragraph.
- (5) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (6) An order under sub-paragraph (5) above shall not apply in relation to a failure which ended on or before the date on which the order comes into force.

#### Textual Amendments

- F12** Words in Sch. 7 para. 14(1) inserted (19.3.1997) by 1997 c. 16, s. 27(11)(a)  
**F13** Words in Sch. 7 para. 14(2)(a) inserted (19.3.1997) by 1997 c. 16, s. 27(11)(b)

- 15 (1) This paragraph applies if a person fails to comply with—
- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations, or
  - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (5) and (6) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax due or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when he fails to pay the tax or furnish the return, but
  - (b) shall not in respect of the continuation of the failure be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid or the return is required to be furnished.
- (4) For the purposes of sub-paragraph (2) above the tax due—
- (a) shall, if the person concerned has furnished a return, be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) shall, in any other case, be taken to be such tax as has been assessed for that period and notified to him under section 56(1) of this Act.

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- (5) A failure falling within sub-paragraph (1) or (3) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (6) Where, by reason of a failure falling within sub-paragraph (1) or (3) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 12 above,
- that failure shall not also give rise to liability to a penalty under this paragraph.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.
- (8) An order under sub-paragraph (7) above shall not apply in relation to a failure which began before the date on which the order comes into force.
- 16 (1) This paragraph applies where—
- (a) by virtue of regulations made under section 65 of this Act a liability notice (within the meaning of that section) is served on an insured person,
  - (b) by virtue of such regulations that person is liable to pay an amount of tax which has been assessed in accordance with the regulations, and
  - (c) that tax is not paid within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (4) and (5) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax assessed as mentioned in sub-paragraph (1) above or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when the tax is unpaid, but
  - (b) shall not in respect of the continuation of the non-payment of the tax be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid.
- (4) A person shall not be liable to a penalty by virtue of this paragraph if he satisfies the Commissioners or, on appeal, an appeal tribunal that he took all reasonable steps to ensure that the tax mentioned in sub-paragraph (1)(b) above was paid within the time required by the regulations.
- (5) Where, by reason of a failure to pay tax, a person is convicted of an offence (whether under this Part of this Act or otherwise), that failure shall not also give rise to liability to a penalty under this paragraph.
- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.

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- (7) An order under sub-paragraph (6) above shall not apply in relation to any failure to pay tax that was required to be paid before the date on which the order comes into force.
- 17 (1) If a person fails to comply with—
- (a) section 53(3) of this Act,
  - (b) any provision of paragraph 2 or 3 above, or
  - (c) a requirement imposed by any regulations made under this Part of this Act, other than a requirement falling within sub-paragraph (2) below,
- he shall be liable to a penalty of £250; but this is subject to sub-paragraphs (3) and (4) below.
- (2) A requirement falls within this sub-paragraph if it is—
- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations,
  - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations,
  - (c) a requirement imposed by regulations made under section 65 of this Act to pay tax within the time required by the regulations, or
  - (d) a requirement specified for the purposes of this sub-paragraph by regulations.
- (3) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (4) Where by reason of a failure falling within sub-paragraph (1) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 12 above,
- that failure shall not also give rise to liability to a penalty under this paragraph.
- (5) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (6) An order under sub-paragraph (5) above shall not apply in relation to a failure which began before the date on which the order comes into force.
- 18 (1) A person who—
- (a) by virtue of subsection (3), (7) or (9) of section 57 of this Act becomes subject to a duty to take action as mentioned in subsection (4) of that section, and
  - (b) fails to take action as so mentioned,
- shall be liable to a penalty of £10,000; but this is subject to sub-paragraph (2) below.
- (2) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.



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- (3) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (4) An order under sub-paragraph (3) above shall not apply in relation to a case where the duty mentioned in sub-paragraph (1) above was imposed before the date on which the order comes into force.
- 19 (1) This paragraph applies where—
- (a) in accordance with regulations under <sup>F14</sup>section 51 of the Finance Act 1997 (enforcement by distress)] a distress is authorised to be levied on the goods and chattels of a person (a person in default) who has refused or neglected to pay any tax due from him or any amount recoverable as if it were tax due from him, and
  - (b) the person levying the distress and the person in default have entered into a walking possession agreement.
- (2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession, and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to sub-paragraph (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the tax or other amount referred to in sub-paragraph (1)(a) above.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.
- (5) This paragraph does not extend to Scotland.

#### Textual Amendments

**F14** Words in Sch. 7 para. 19(1)(a) substituted (1.7.1997) by 1997 c. 16, s. 53(5)(9); S.I. 1997/1432, art. 2

- 20 For the purposes of paragraphs 14(3), 15(5), 17(3), 18(2) and 19(4) above—
- (a) an insufficiency of funds available for paying any amount is not a reasonable excuse, and
  - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.

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**PART V**

INTEREST

*Interest on tax etc.*

- 21 (1) Where an assessment is made under any provision of section 56 of this Act, the whole of the amount assessed shall carry interest at [<sup>F15</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment; but this is subject to sub-paragraph (2) and paragraph 25(7) below.
- (2) Sub-paragraph (1) above shall not apply in relation to an assessment under section 56(1) of this Act unless at least one of the following conditions is fulfilled, namely—
- (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 concerned;
  - (b) that the assessment relates to an accounting period which exceeds three months and begins on the date with effect from which the person was, or was required to be, registered under this Part of this Act.
- (3) In a case where—
- (a) the circumstances are such that a relevant assessment could have been made, but
  - (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),
- the whole of the amount paid shall carry interest at [<sup>F15</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until the date on which it was paid; and for the purposes of this sub-paragraph a relevant assessment is an assessment in relation to which sub-paragraph (1) above would have applied if the assessment had been made.
- (4) The references in sub-paragraphs (1) and (3) above to the reckonable date shall be construed as follows—
- (a) where the amount assessed or paid is such an amount as is referred to in subsection (2) of section 56 of this Act, the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been paid to the person concerned;
  - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under this Part of this Act) a return is required to be made 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>M13</sup>Bills of Exchange Act 1882.
- <sup>F16</sup>(5) .....
- (6) Interest under this paragraph shall be paid without any deduction of income tax.

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#### Textual Amendments

- F15** Words in [Sch. 7 para. 21\(1\)\(3\)](#) substituted (29.4.1996 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8, s. 197\(6\)\(7\)](#); [S.I. 1997/1015, art. 2](#)
- F16** [Sch. 7 para. 21\(5\)](#) repealed (29.4.1996 with effect as mentioned in [s. 197\(7\)](#) of the repealing Act) by [1996 c. 8, s. ss. 197, 205, Sch. 41 Pt. VIII\(1\), Note](#); [S.I. 1997/1015, art. 2](#)

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

- C5** [Sch. 7 para. 21](#): power to amend conferred (29.4.1996) by [1996 c. 8, s. 197\(2\)\(b\)](#)

#### Marginal Citations

- M13** [1882 c. 61](#).

### *Interest payable by Commissioners*

- 22 (1) Where, due to an error on the part of the Commissioners, a person—
- has paid to them by way of tax an amount which was not tax due and which they are in consequence liable to repay to him,
  - has failed to claim payment of an amount to the payment of which he was entitled in pursuance of provision made under section 55(3)(c), (d) or (f) of this Act, or
  - has suffered delay in receiving payment of an amount due to him from them in connection with tax,
- then, if and to the extent that they would not be liable to do so apart from this paragraph, they shall (subject to the following provisions of this paragraph) pay interest to him on that amount for the applicable period.
- [<sup>F17</sup>(1A) In sub-paragraph (1) above—
- the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
  - the amounts referred to in paragraph (c) do not include any amount payable under this paragraph.]

(2) Interest under this paragraph shall be payable at [<sup>F18</sup>the rate applicable under section 197 of the Finance Act 1996]

(3) The applicable period, in a case falling within sub-paragraph (1)(a) above, is the period—

    - beginning with the date on which the payment is received by the Commissioners, and
    - ending with the date on which they authorise payment of the amount on which the interest is payable.

(4) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—

    - beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and
    - ending with the date on which they in fact authorise payment of that amount.

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- [<sup>F19</sup>(5) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.
- (5A) The reference in sub-paragraph (5) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—
- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
  - (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
    - (i) at or before the time of the making of a claim, or
    - (ii) subsequently in response to a request for information by the Commissioners,
 with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and
  - (c) the making, as part of or in association with either—
    - (i) the claim for interest, or
    - (ii) any claim for the payment or repayment of the amount on which interest is claimed,
 of a claim to anything to which the claimant was not entitled.
- (6) In determining for the purposes of sub-paragraph (5A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.]
- (8) The Commissioners shall only be liable to pay interest under this paragraph on a claim made in writing for that purpose.
- [<sup>F20</sup>(9) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.]
- [<sup>F21</sup>(10) References in this paragraph to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off of the Commissioners' liability to pay that amount.]

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#### Textual Amendments

- F17** Sch. 7 para. 22(1A) inserted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(2)
- F18** Words in Sch. 7 para. 22(2) substituted (29.4.1996 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(c)(7); S.I. 1997/1015, art. 2
- F19** Sch. 7 para. 22(5)-(6) substituted for para. 22(5)-(7) (19.3.1997 with effect as mentioned in Sch. 5 para. 10(2) of the amending Act) by 1997 c. 16, s. 50(1), **Sch. 5 para. 10(1)(2)**
- F20** Sch. 7 para. 22(9) substituted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(3)
- F21** Sch. 7 para. 22(10) substituted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(4)

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

- C6** Sch. 7 para. 22: power to amend conferred (29.4.1996) by 1996 c. 8, s. 197(2)(b)

- 23 (1) In a case where—
- (a) any interest is payable by the Commissioners to a person on a sum due to him under this Part of this Act, and
  - (b) he is a person to whom regulations under section 55 of this Act apply,
- the interest shall be treated as an amount to which he is entitled by way of credit in pursuance of the regulations.
- (2) Sub-paragraph (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.

## PART VI

### MISCELLANEOUS

#### *Security for tax*

- 24 Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a registrable person, as a condition of his entering into taxable insurance contracts, to give security (or further security) of such amount and in such manner as they may determine for the payment of any tax which is or may become due from him.

#### *Assessments to penalties etc.*

- 25 (1) Where a person is liable—
- (a) to a penalty under any of paragraphs 12 to 19 above, or
  - (b) for interest under paragraph 21 above,
- the Commissioners may, subject to sub-paragraph (2) below, assess the amount due by way of penalty or interest (as the case may be) and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of paragraphs 12 to 19 above may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.
- (2) In the case of the penalties and interest referred to in the following paragraphs of this sub-paragraph, the assessment under this paragraph shall be of an amount due in respect of the accounting period which in the paragraph concerned is referred to as the relevant period—

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- (a) in the case of a penalty under paragraph 12 above relating to the evasion of tax, the relevant period is the accounting period for which the tax evaded was due;
  - (b) in the case of a penalty under paragraph 12 above relating to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act, the relevant period is the accounting period in respect of which the payment was obtained;
  - (c) in the case of interest under paragraph 21 above, the relevant period is the accounting period in respect of which the tax (or amount assessed as tax) was due.
- (3) In a case where the amount of any penalty or interest falls to be calculated by reference to tax which was not paid at the time it should have been and that tax cannot be readily attributed to any one or more accounting periods, it shall be treated for the purposes of this Part of this Act as tax due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the tax and penalty or interest.
- (4) Where a person is assessed under this paragraph to an amount due by way of any penalty or interest falling within sub-paragraph (2) above and is also assessed under subsection (1) or (2) of section 56 of this Act for the accounting period which is the relevant period under sub-paragraph (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty or interest shall be separately identified in the notice.
- (5) Sub-paragraph (6) below applies in the case of—
- (a) an amount due by way of penalty under paragraph 15 or 16 above;
  - (b) an amount due by way of interest under paragraph 21 above.
- (6) Where this sub-paragraph applies in the case of an amount—
- (a) a notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated, and
  - (b) if the penalty or interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of amounts which so accrue.
- (7) If, within such period as may be notified by the Commissioners to the person liable to the penalty under paragraph 15 or 16 above or for the interest under paragraph 21 above—
- (a) a failure falling within paragraph 15(3) above is remedied,
  - (b) the tax referred to in paragraph 16(1) above is paid, or
  - (c) the amount referred to in paragraph 21(1) above is paid,
- it shall be treated for the purposes of paragraph 15, 16 or 21 above (as the case may be) as remedied or paid on the date specified as mentioned in sub-paragraph (6)(a) above.
- (8) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were tax due from him unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

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- (9) Subsection (8) of section 56 of this Act shall apply for the purposes of this paragraph as it applies for the purposes of that section.

*Assessments: time limits*

- 26 (1) Subject to the following provisions of this paragraph, an assessment under—
- (a) any provision of section 56 of this Act, or
  - (b) paragraph 25 above,
- shall not be made more than [<sup>F22</sup>three years] after the end of the accounting period concerned or, in the case of an assessment under paragraph 25 above of an amount due by way of a penalty which is not a penalty referred to in sub-paragraph (2) of that paragraph, [<sup>F22</sup>three years] after the event giving rise to the penalty.
- (2) An assessment under paragraph 25 above of—
- (a) an amount due by way of any penalty referred to in sub-paragraph (2) of that paragraph, or
  - (b) an amount due by way of interest,
- may be made at any time before the expiry of the period of two years beginning with the time when the amount of tax due for the accounting period concerned has been finally determined.
- (3) In relation to an assessment under paragraph 25 above, any reference in sub-paragraph (1) or (2) above to the accounting period concerned is a reference to that period which, in the case of the penalty or interest concerned, is the relevant period referred to in sub-paragraph (2) of that paragraph.
- (4) If tax has been lost—
- (a) as a result of conduct falling within paragraph 12(1) above or for which a person has been convicted of fraud, or
  - (b) in circumstances giving rise to liability to a penalty under paragraph 14 above,
- an assessment may be made as if, in sub-paragraph (1) above, each reference to [<sup>F22</sup>three years] were a reference to twenty years.

**Textual Amendments**

**F22** Words in Sch. 7 para. 26(1)(4) substituted (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 para. 6(1)(2)(b)

*Supplementary assessments*

- 27 If, otherwise than in circumstances falling within subsection (5)(b) of section 56 of this Act, it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that section or under paragraph 25 above exceeds the amount which was so assessed, then—
- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

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### *Disclosure of information*

- 28 (1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
- (a) to the Secretary of State, or
  - (b) to an authorised officer of the Secretary of State,
- for the purpose of assisting the Secretary of State in the performance of his duties.
- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—
- (a) the Secretary of State, or
  - (b) an authorised officer of the Secretary of State,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or
  - (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
- (4) References in the preceding provisions of this paragraph to an authorised officer of the Secretary of State are to any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this paragraph.
- (5) The Secretary of State shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.

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

**C7** Sch. 7 para. 28: certain functions of the Secretary of State made exercisable concurrently with the Treasury (5.1.1998) by S.I. 1997/2781, arts. 4(3) (with art. 7)

- [<sup>F23</sup>28A(1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
- (a) to the Treasury, or
  - (b) to an authorised officer of the Treasury,
- for the purpose of assisting the Treasury in the performance of their duties.
- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—
- (a) the Treasury, or
  - (b) an authorised officer of the Treasury,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or



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- (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
- (4) References in the preceding provisions of this paragraph to an authorised officer of the Treasury are to any person who has been designated by the Treasury as a person to and by whom information may be disclosed under this paragraph.
- (5) The Treasury shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.]

#### Textual Amendments

**F23** Sch. 7 para. 28A inserted (5.1.1998) by S.I. 1997/2781, art. 8(1), Sch. Pt. II para. 124 (with art. 7)

#### *Evidence by certificate*

- 29 (1) A certificate of the Commissioners—
- (a) that a person was or was not at any time registered under section 53 of this Act,
  - (b) that any return required by regulations under section 54 of this Act has not been made or had not been made at any time, or
  - (c) that any tax shown as due in a return made in pursuance of regulations made under section 54 of this Act, or in an assessment made under section 56 of this Act, has not been paid,
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) Any document purporting to be a certificate under sub-paragraph (1) above shall be taken to be such a certificate until the contrary is proved.

#### *Service of notices etc.*

- 30 Any notice, notification or requirement to be served on, given to or made of any person for the purposes of this Part of this Act may be served, given or made by sending it by post in a letter addressed to that person or his tax representative at the last or usual residence or place of business of that person or representative.

#### *No deduction of penalties or interest*

- 31 In section 827 of the Taxes Act 1988 (no deduction for penalties etc.) the following subsection shall be inserted after subsection (1A)—
- “(1B) Where a person is liable to make a payment by way of—
- (a) penalty under any of paragraphs 12 to 19 of Schedule 7 to the Finance Act 1994 (insurance premium tax), or
  - (b) interest under paragraph 21 of that Schedule,
- the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”

#### *Destination of receipts*

- 32 All money and securities for money collected or received for or on account of the tax shall—

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- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the <sup>M14</sup>Customs and Excise Management Act 1979;
- (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

**Marginal Citations**

**M14** 1979 c. 2.

*Provisional collection of tax*

- 33 In section 1(1) of the <sup>M15</sup>Provisional Collection of Taxes Act 1968 after “value added tax,” there shall be inserted “ insurance premium tax, ”.

**Marginal Citations**

**M15** 1968 c. 2.

- 34 (1) In a case where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 tax has been paid at a rate specified in the resolution, and
  - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that tax is repayable in consequence of the restoration in relation to the premium concerned of a lower rate,
- the amount repayable shall be the difference between the tax paid by reference to the actual chargeable amount at the rate specified in the resolution and the tax that would have been payable by reference to the actual chargeable amount at the lower rate.
- (2) In sub-paragraph (1) above the “actual chargeable amount” means the chargeable amount by reference to which tax was paid.
- (3) In a case where—
- (a) by virtue of a resolution having effect under the <sup>M16</sup>Provisional Collection of Taxes Act 1968 tax is chargeable at a rate specified in the resolution, but
  - (b) before the tax is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to the premium concerned of a lower rate,
- the tax chargeable at the lower rate shall be charged by reference to the same chargeable amount as that by reference to which tax would have been chargeable at the rate specified in the resolution.

**Marginal Citations**

**M16** 1968 c. 2.

*Adjustment of contracts*

- 35 (1) Where, after the making of a contract of insurance and before a given premium is received by the insurer under the contract, there is a change in the tax chargeable on

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the receipt of the premium, then, unless the contract otherwise provided, there shall be added to or deducted from the amount payable as the premium an amount equal to the difference between—

- (a) the tax chargeable had the change not been made, and
- (b) the tax in fact chargeable.

- (2) References in sub-paragraph (1) above to a change in the tax chargeable include references to a change to or from no tax being chargeable.
- (3) Where this paragraph applies, the amount of the premium shall not be treated as altered for the purposes of calculating tax.

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