

Status: Point in time view as at 17/02/2015.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part V. (See end of Document for details)

SCHEDULES

SCHEDULE 5

LANDFILL TAX

Modifications etc. (not altering text)

C1 Sch. 5 extended (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. I para. 4(3)**

PART V

CIVIL PENALTIES

Evasion

F1¹⁸

Textual Amendments

F1 Sch. 5 paras. 18-20 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122(2), **Sch. 40 para. 21(e)** (with savings in S.I. 2009/511, art. 4(c)); S.I. 2009/571, art. 2 (with art. 6)

F1¹⁹

Textual Amendments

F1 Sch. 5 paras. 18-20 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122(2), **Sch. 40 para. 21(e)** (with savings in S.I. 2009/511, art. 4(c)); S.I. 2009/571, art. 2 (with art. 6)

Misdeclaration or neglect

F1²⁰

Textual Amendments

F1 Sch. 5 paras. 18-20 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122(2), **Sch. 40 para. 21(e)** (with savings in S.I. 2009/511, art. 4(c)); S.I. 2009/571, art. 2 (with art. 6)

Registration

21 **F2**⁽¹⁾

F3⁽²⁾

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(3) A person who fails to comply with section 47(4) of this Act is liable to a penalty of £250.

^{F4}(4)

Textual Amendments

- F2** Sch. 5 para. 21(1) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(h)(ii)**; S.I. 2009/511, art. 2 (with art. 4)
- F3** Sch. 5 para. 21(2) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(h)(ii)**; S.I. 2009/511, art. 2 (with art. 4)
- F4** Sch. 5 para. 21(4) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(h)(ii)**; S.I. 2009/511, art. 2 (with art. 4)

Information

22 (1) If a person—

^{F5}(a)

(b) fails to make records as required by any provision of regulations made under paragraph 2 above,

he is liable to a penalty of £250; but this is subject to sub-paragraph (4) below.

(2) Where—

(a) a penalty (an initial penalty) is imposed on a person under sub-paragraph (1) above, and

(b) the failure which led to the initial penalty continues after its imposition,

he is (subject to sub-paragraph (4) below) liable to a further penalty of £20 for each day during which (or any part of which) the failure continues after the day on which the initial penalty was imposed.

(3) A person who fails to preserve records in compliance with any provision of regulations made under paragraph 2 above (read with that paragraph and any direction given under the regulations) is liable to a penalty of £250; but this is subject to sub-paragraph (4) below.

(4) 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 18 above [^{F6}or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)] [^{F7}or a penalty under Schedule 41 to the Finance Act 2008 (penalties: failure to notify and certain VAT and excise wrongdoing)],

that failure shall not also give rise to liability to a penalty under this paragraph.

Textual Amendments

- F5** Sch. 5 para. 22(1)(a) and word omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 7(b)** (with art. 6)

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- F6** Words in Sch. 5 para. 22(4) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\)](#), art. 1(1), **Sch. 1 para. 19**
- F7** Words in Sch. 5 para. 22(4)(b) inserted (1.4.2010) by [The Finance Act 2008 \(Penalties for Errors and Failure to Notify etc\) \(Consequential Amendments\) Order 2010 \(S.I. 2010/530\)](#), art. 1, **Sch. para. 6(b)**

Breach of regulations

- 23 (1) Where regulations made under this Part of this Act impose a requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable to a penalty of £250; but this is subject to sub-paragraphs (2) and (3) below.
- (2) Where by reason of any conduct—
- (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 18 above [^{F8}or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)] [^{F9}or a penalty under Schedule 41 to the Finance Act 2008 (penalties: failure to notify and certain VAT and excise wrongdoing)], that conduct shall not also give rise to liability to a penalty under the regulations.
- (3) Sub-paragraph (1) above does not apply to any failure mentioned in paragraph 22 above.

Textual Amendments

- F8** Words in Sch. 5 para. 23(2) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\)](#), art. 1(1), **Sch. 1 para. 19**
- F9** Words in Sch. 5 para. 23(2)(b) inserted (1.4.2010) by [The Finance Act 2008 \(Penalties for Errors and Failure to Notify etc\) \(Consequential Amendments\) Order 2010 \(S.I. 2010/530\)](#), art. 1, **Sch. para. 6(b)**

Modifications etc. (not altering text)

- C1** Sch. 5 para. 23 extended (19.3.1997) by [1997 c. 16, s. 50\(1\)](#), **Sch. 5 Pt. 1 para. 4(3)**

[^{F10}Controlled Goods Agreements

Textual Amendments

- F10** [Sch. 5 para. 23A](#) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 123** (with s. 89); [S.I. 2014/768](#), art. 2(1)(b); and omitted (6.4.2014) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), **Sch. 43 para. 5**; [S.I. 2014/906](#), art. 2

- 23A (1) This paragraph applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).

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- (2) In this paragraph, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) If the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the tax or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (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 extends only to England and Wales.]

Walking possession agreements

- 24 (1) This paragraph applies where—
- (a) in accordance with regulations under ^[F11]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) If the person in default is in breach of the undertaking contained in a walking possession agreement, he is liable to a penalty equal to half of the tax or other amount referred to in sub-paragraph (1)(a) above.
- [^{F12}(4) This paragraph extends only to Northern Ireland.]

Textual Amendments

F11 Words in Sch. 5 para. 24(1)(a) substituted (1.7.1997) by 1997 c. 16, s. 53(8); S.I. 1997/1432, art. 2

F12 Sch. 5 para. 24(4) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 124 (with s. 89); S.I. 2014/768, art. 2(1)(b)

Mitigation of penalties

- 25 (1) Where a person is liable to a penalty under this Part of this Schedule the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper.

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- (2) Where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for any breach, failure or other conduct, that is a factor which (among other things) may be taken into account under sub-paragraph (1) above.
- (3) 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.

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