

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part VI. (See end of Document for details)

SCHEDULES

SCHEDULE 6 **U.K.**

CLIMATE CHANGE LEVY

Modifications etc. (not altering text)

- C1** Sch. 6 modified (coming into force in accordance with art. 1 of the amending S.I.) by [The Climate Change Levy \(Suspension of Recycling Exemption\) Order 2011 \(S.I. 2011/1023\)](#), arts. 1, 2, 3
- C1** Sch. 6 modified (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 para. 1\(1\)](#)

PART VI **U.K.**

CREDITS AND REPAYMENTS

Tax credits

- 62 (1) The Commissioners may, in accordance with the following provisions of this paragraph, by regulations make provision in relation to cases where—
- (a) after a taxable supply has been made, there is such a change in circumstances or any person's intentions that, if the changed circumstances or intentions had existed at the time the supply was made, the supply would not have been a taxable supply;
 - (b) after a supply of a taxable commodity is made on the basis that it is a taxable supply, it is determined that the supply was not (to any extent) a taxable supply;
 - [^{F1}(ba) a quantity of a carbon price support rate commodity is the subject of a deemed supply under paragraph 24A or 24B but afterwards the quantity—
 - (i) is not used as mentioned in paragraph 24A(1)(b) or 24B(1)(b) (as the case may be), and
 - (ii) is removed from the site at which the station is situated or from the CHPQA site of the station (as the case may be);
 - (bb) after—
 - (i) a determination is made under regulations falling within paragraph 24B(3) that a quantity, or a proportion of a quantity, of a carbon price support rate commodity is referable to the production of electricity [^{F2}to which paragraph 24B(2A) does not apply], and
 - (ii) it is accordingly determined that the quantity or proportion of a quantity is the subject of a deemed supply under paragraph 24B, it is determined that the quantity or proportion of a quantity was not referable to the production of electricity [^{F2}to which paragraph 24B(2A) does not apply];

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- (bc) after an amount is determined to be payable by way of levy on a deemed supply under paragraph 24A or 24B, it is determined that that amount is too high;]
 - (c) after a taxable supply has been made on the basis that it was [^{F3}not] a reduced-rate supply, it is determined that the supply was (to any extent) a ^{F4}... reduced-rate supply;
 - ^{F5}(ca)
 - ^{F5}(cb)
 - ^{F6}(d)
 - (e) after a charge to levy has arisen on a supply of a taxable commodity (“the original commodity”) to a person who uses the commodity supplied in producing taxable commodities primarily for his own consumption, that person makes supplies of any of the commodities in whose production he has used the original commodity;
 - (f) after a person has become entitled to a debt as a result of making a taxable supply, the debt turns out to be bad (in whole or in part);
 - (g) the making of a taxable supply gives rise to a double charge to levy within the meaning of paragraph 21.
- (2) The provision that may be made in relation to any such case as is mentioned in sub-paragraph (1) is provision—
- (a) for such person as may be specified in the regulations to be entitled to a tax credit in respect of any levy charged on the supply (or, in such a case as is mentioned in sub-paragraph (1)(g), one of the supplies) in question;
 - (b) for a tax credit to which any person is entitled under the regulations to be brought into account when he is accounting for [^{F7}such levy due from him] as may be determined in accordance with the regulations; and
 - (c) for a person entitled to a tax credit to be entitled, in any prescribed case where he cannot bring the tax credit into account so as to set it against a liability to levy, to a repayment of levy of an amount so determined.
- (3) Regulations under this paragraph may contain any or all of the following provisions—
- (a) provision making any entitlement to a tax credit conditional on the making of a claim by such person, within such period and in such manner as may be prescribed;
 - (b) provision making entitlement to bring a tax credit into account, or to receive a repayment in respect of such a credit, conditional on compliance with such requirements (including the making of a claim) as may be determined in accordance with the regulations;
 - (c) provision requiring a claim for a tax credit to be evidenced and quantified by reference to such records and other documents as may be so determined;
 - (d) provision requiring a person claiming any entitlement to a tax credit to keep, for such period and in such form and manner as may be so determined, those records and documents and a record of such information relating to the claim as may be so determined;
 - (e) provision for the withdrawal of a tax credit where any requirement of the regulations is not complied with;

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- (f) provision for interest at the rate applicable under section 197 of the Finance Act 1996 to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any tax credit;
- (g) provision for determining whether, and to what extent, a debt is to be taken as bad;
- (h) provision for the withdrawal of a tax credit to which a person has become entitled in a case within sub-paragraph (1)(f) where any part of the debt that has been taken to be bad falls to be regarded as not having been bad;
- (i) provision for determining whether, and to what extent, any part of a debt that has been taken to be bad should be regarded as not having been bad;
- (j) provision for anything falling to be determined in accordance with the regulations to be determined by reference to a general or specific direction given in accordance with the regulations by the Commissioners.

(4) Regulations made under this paragraph shall have effect subject to the provisions of paragraph 64.

Textual Amendments

- F1** Sch. 6 para. 62(1)(ba)-(bc) inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 42 paras. 16, 21**
- F2** Words in [Sch. 6 para. 62\(1\)\(bb\)](#) inserted (with effect in accordance with s. 63(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **s. 63(4)**
- F3** Word in [Sch. 6 para. 62\(1\)\(c\)](#) substituted (1.11.2007) by [Finance Act 2006 \(c. 25\)](#), **s. 172(13)(a)(i)(16)**; [S.I. 2007/2901](#), **art. 2(1)** (with **art. 2(2)-(4)**)
- F4** Words in [Sch. 6 para. 62\(1\)\(c\)](#) repealed (1.11.2007) by [Finance Act 2006 \(c. 25\)](#), **s. 172(13)(a)(ii)(16)**, **Sch. 26 Pt. 8(1)**; [S.I. 2007/2901](#), **art. 2(1)** (with **art. 2(2)-(4)**)
- F5** [Sch. 6 para. 62\(1\)\(ca\)\(cb\)](#) omitted (with effect in accordance with [Sch. 20 para. 10\(2\)\(3\)](#) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 20 paras. 6, 10(1)**
- F6** [Sch. 6 para. 62\(1\)\(d\)](#) repealed (1.11.2007) by [Finance Act 2006 \(c. 25\)](#), **s. 172(13)(b)(16)**, **Sch. 26 Pt. 8(1)**; [S.I. 2007/2901](#), **art. 2(1)** (with **art. 2(2)-(4)**)
- F7** Words in [Sch. 6 para. 62\(2\)\(b\)](#) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **s. 192(4)**

Repayments of overpaid levy

- 63
- (1) Where a person has paid an amount to the Commissioners by way of levy which was not levy due to them, they shall be liable to repay the amount to him.
 - (2) The Commissioners shall not be liable to repay an amount under this paragraph if, or to the extent that, any person has become entitled to a tax credit in respect of that amount by virtue of tax credit regulations.
 - (3) The Commissioners shall not be liable to repay an amount under this paragraph except on the making of a claim for that purpose.
 - (4) A claim under this paragraph must be made in such form and manner, and must be supported by such documentary evidence, as may be required by regulations made by the Commissioners.
 - (5) The preceding provisions of this paragraph are subject to the provisions of paragraph 64.

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- (6) Except as provided by this paragraph or tax credit regulations, the Commissioners shall not, by virtue of the fact that it was not levy due to them, be liable to repay any amount paid to them by way of levy.

Supplemental provisions about repayments etc.

- 64 (1) The Commissioners shall not be liable, on any claim for a repayment of levy, to repay any amount paid to them more than [^{F8}4 years] before the making of the claim.
- (2) It shall be a defence to any claim for a repayment of an amount of levy that the repayment of that amount would unjustly enrich the claimant.
- (3) Sub-paragraph (4) applies for the purposes of sub-paragraph (2) where—
- (a) there is an amount paid by way of levy which (apart from sub-paragraph (2)) would fall to be the subject of a repayment of levy to any person (“person A”); and
 - (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than person A.
- (4) Where, in a case to which this sub-paragraph applies, loss or damage has been or may be incurred by person A as a result of mistaken assumptions made in his case about the operation of any provisions relating to levy, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination as to—
- (a) whether or to what extent the repayment of an amount to person A would enrich him; or
 - (b) whether or to what extent any enrichment of person A would be unjust.
- (5) In sub-paragraph (4) “the quantified amount” means the amount (if any) which is shown by person A to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions.
- (6) The reference in sub-paragraph (4) to provisions relating to levy is a reference to any provisions of—
- (a) any enactment or subordinate legislation (whether or not still in force) which relates to the levy or to any matter connected with it; or
 - (b) any notice published by the Commissioners under or for the purposes of any enactment or subordinate legislation relating to the levy.

Textual Amendments

- F8** Words in Sch. 6 para. 64(1) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 33](#); [S.I. 2010/867, art. 2\(1\)](#) (with [art. 16](#))

Reimbursement arrangements

- 65 (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of paragraph 64(2) except where the arrangements—
- (a) contain such provision as may be required by the regulations; and

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- (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means any arrangements for the purposes of a claim to a repayment of levy which—
- (a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
 - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Without prejudice to the generality of sub-paragraph (1), the provision that may be required by regulations under this paragraph to be contained in reimbursement arrangements includes—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
 - (b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
 - (c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
 - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this paragraph may impose obligations on such persons as may be specified in the regulations—
- (a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of sub-paragraph (3)(b) or (c);
 - (b) to comply with any requirements contained in any such arrangements by virtue of sub-paragraph (3)(d).
- (5) Regulations under this paragraph may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.

Interest payable by the Commissioners

- 66 (1) Where, due to an error on the part of the Commissioners, a person—
- (a) has paid to them by way of levy an amount which was not levy due and which they are in consequence liable to repay to him,
 - (b) has failed to claim a repayment of levy to which he was entitled, under any tax credit regulations, in respect of any tax credits, or
 - (c) has suffered delay in receiving payment of an amount due to him from them in connection with levy,

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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.

- (2) In sub-paragraph (1), 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.
- (3) In that sub-paragraph the amounts referred to in paragraph (c)—
 - (a) do not include any amount payable under this paragraph;
 - (b) do not include the amount of any interest for which provision is made by virtue of paragraph 62(3)(f); but
 - (c) do include any amount due (in respect of an adjustment of overpaid interest) by way of a repayment under paragraph 87(3) or 110(3).
- (4) The applicable period, in a case falling within sub-paragraph (1)(a), is the period—
 - (a) beginning with the date on which the payment is received by the Commissioners; and
 - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (5) The applicable period, in a case falling within sub-paragraph (1)(b) or (c), is the period—
 - (a) 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
 - (b) ending with the date on which they in fact authorise payment of that amount.
- (6) 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 circumstances beyond their control.
- (7) The reference in sub-paragraph (6) to a period by which the Commissioners' authorisation of the payment of interest is delayed by circumstances beyond their control includes, in particular, any period which is referable to—
 - (a) any unreasonable delay in the making of any claim for the payment or repayment of the amount on which interest is claimed;
 - (b) any failure by any person 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 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.
- (8) In determining for the purposes of sub-paragraph (7) 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—

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- (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.
- (9) The Commissioners shall not be liable to pay interest under this paragraph except on the making of a claim for that purpose.
- (10) A claim under this paragraph must be in writing and must be made not more than [^{F9}4 years] after the end of the applicable period to which it relates.
- (11) References in this paragraph—
 - (a) to receiving payment of any amount from the Commissioners, or
 - (b) to the authorisation by the Commissioners of the payment of any amount,include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 73 or 74 or otherwise) of the Commissioners' liability to pay that amount.
- (12) Interest under this paragraph shall be payable at the rate applicable under section 197 of the ^{M1}Finance Act 1996.

Textual Amendments

F9 Words in Sch. 6 para. 66(10) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 34; S.I. 2010/867, art. 2\(1\)](#) (with art. 17)

Marginal Citations

M1 1966 c. 8.

Assessment for excessive repayment

- 67 (1) Where—
- (a) any amount has been paid at any time to any person by way of a repayment of levy, and
 - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person,
- the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.
- (2) Where—
- (a) any amount has been paid to any person by way of repayment of levy,
 - (b) the repayment is in respect of a tax credit entitlement to which arose in a case falling within paragraph 62(1)(f) (tax credit where all or part of a debt is bad),

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- (c) the whole or any part of the credit is withdrawn on account of any part of the debt taken as bad falling to be regarded as not having been bad, and
- (d) the amount paid exceeded the amount which the Commissioners would have been liable to repay to that person had that withdrawal been taken into account,

the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.

- (3) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 65(4)(a), the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.
- (4) Subject to sub-paragraph (5), where—
 - (a) an assessment is made on any person under this paragraph in respect of a repayment of levy made in relation to any accounting period, and
 - (b) the Commissioners have power under Part VII of this Schedule to make an assessment on that person to an amount of levy due from that person for that period,
 the assessments may be combined and notified to him as one assessment.
- (5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of levy.

Assessment for overpayments of interest

68

Where—

- (a) any amount has been paid to any person by way of interest under paragraph 66, but
- (b) that person was not entitled to that amount under that paragraph,

the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.

Assessments under paragraphs 67 and 68

69

- (1) An assessment under paragraph 67 or 68 shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (2) Where an amount has been assessed and notified to any person under paragraph 67 or 68, it shall be recoverable as if it were levy due from him.
- (3) Sub-paragraph (2) does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

Interest on amounts assessed

70

- (1) Where an assessment is made under paragraph 67 or 68, the whole of the amount assessed shall carry interest, for the period specified in sub-paragraph (2), as follows—
 - (a) so much of that amount as represents the amount of a tax credit claimed by a person who was not entitled to it (but not any amount assessed under paragraph 67(2)) shall carry penalty interest;

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- (b) so much of that amount as does not carry penalty interest under paragraph (a) shall carry interest at the rate applicable under section 197 of the ^{M2}Finance Act 1996.
- (2) That period is the period which—
 - (a) begins with the day after that on which the person is notified of the assessment; and
 - (b) ends with the day before that on which payment is made of the amount assessed.
- (3) Interest under this paragraph shall be paid without any deduction of income tax.
- (4) Penalty interest under this paragraph shall be compound interest calculated—
 - (a) at the penalty rate, and
 - (b) with monthly rests.
- (5) For this purpose the penalty rate is the rate found by—
 - (a) taking the rate applicable under section 197 of the Finance Act 1996 for the purposes of sub-paragraph (1)(b); and
 - (b) adding 10 percentage points to that rate.
- (6) Where a person is liable under this paragraph to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (7) Subject to sub-paragraph (8), where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (6).
- (8) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (7), no account shall be taken of any of the following matters, that is to say—
 - (a) the insufficiency of the funds available to any person for paying any levy due or for paying the amount of the interest;
 - (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 levy;
 - (c) the fact that the person liable to pay the interest or a person acting on his behalf has acted in good faith.
- (9) In the case of interest reduced by the Commissioners under sub-paragraph (6) an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Marginal Citations

M2 1996 c. 8.

Assessments to interest under paragraph 70

- 71 (1) Where any person is liable to interest under paragraph 70 the Commissioners may assess the amount due by way of interest and notify it to him accordingly.

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- (2) Without prejudice to the power to make assessments under this paragraph for later periods, the interest to which an assessment under this paragraph may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment under this paragraph is made.
- (3) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were levy due from him.
- (4) Sub-paragraph (3) does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (5) Where an assessment is made under this paragraph to an amount of interest under paragraph 70—
 - (a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and
 - (b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of the amounts so accruing.
- (6) Where—
 - (a) an assessment to interest is made specifying a date for the purposes of sub-paragraph (5)(a), and
 - (b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,
 that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

Supplementary assessments

- 72 If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 67, 68 or 71 exceeds the amount which was so assessed, then—
- (a) under the same paragraph 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 notify the person concerned accordingly.

Set-off of or against amounts due under this Schedule

- 73 (1) The Commissioners may by regulations make provision in relation to any case where—
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of levy; and
 - (b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of levy or any of the other taxes under their care and management.
- (2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) exceeds the total of the amount or

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amounts mentioned in sub-paragraph (1)(b), the latter shall be set off against the former.

- (3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a), the Commissioners may set off the latter in paying the former.
- (4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) no payment need be made in respect of the former or the latter.
- (5) Regulations under this paragraph may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of levy to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a).
- (6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) as discharged accordingly.
- (7) References in sub-paragraph (1) to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (8) In this paragraph “tax” includes duty.

Set-off of or against other taxes and duties

- 74 (1) The Commissioners may by regulations make provision in relation to any case where—
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax (or taxes) under their care and management other than levy; and
 - (b) the Commissioners are under a duty, at the same time, to make any repayment of levy to that person or to make any other payment to him of any amount or amounts in respect of levy.
- (2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b), the latter shall be set off against the former.
 - (3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a), the Commissioners may set off the latter in paying the former.
 - (4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) no payment need be made in respect of the former or the latter.
 - (5) Regulations under this paragraph may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due

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to them in respect of any of the taxes under their care and management to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1) (a).

- (6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) as discharged accordingly.
- (7) References in sub-paragraph (1) to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (8) In this paragraph “tax” includes duty.

Restriction on powers to provide for set-off

- 75 (1) Regulations made under paragraph 73 or 74 shall not require any such amount or amounts as are mentioned in sub-paragraph (1)(b) of that paragraph (“the credit”) to be set against any such amount or amounts as are mentioned in sub-paragraph (1)(a) of that paragraph (“the debit”) in any case where—
- (a) an insolvency procedure has been applied to the person entitled to the credit;
 - (b) the credit became due after that procedure was so applied; and
 - (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.
- (2) For the purposes of this paragraph, an insolvency procedure is applied to a person if—
- (a) a bankruptcy order, winding-up order or administration order is made [^{F10}or an administrator is appointed] in relation to that person or an award of sequestration is made on that person’s estate;
 - (b) that person is put into administrative receivership;
 - (c) that person passes a resolution for voluntary winding up;
 - (d) any voluntary arrangement approved in accordance with—
 - (i) Part I or VIII of the ^{M3}Insolvency Act 1986, or
 - (ii) Part II or Chapter II of Part VIII of the ^{M4}Insolvency (Northern Ireland) Order 1989,
 comes into force in relation to that person;
 - (e) a deed of arrangement registered in accordance with—
 - ^{F11}(i)
 - (ii) Chapter I of Part VIII of that Order,
 takes effect in relation to that person;
 - (f) a person is appointed as the interim receiver of some or all of that person’s property under section 286 of the Insolvency Act 1986 or Article 259 of the Insolvency (Northern Ireland) Order 1989;
 - (g) a person is appointed as the provisional liquidator in relation to that person under section 135 of that Act or Article 115 of that Order;
 - (h) an interim order is made under Part VIII of that Act, or Chapter II of Part VIII of that Order, in relation to that person; or

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- (i) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act [^{F12}2016]).
- (3) In this paragraph references, in relation to any person, to the application of an insolvency procedure to that person shall not include—
- (a) the making of a bankruptcy order, winding-up order ^{F13}... or award of sequestration [^{F14}or the appointment of an administrator] at a time when any such arrangement or deed as is mentioned in paragraph (d), (e) or (i) of subparagraph (2) is in force in relation to that person;
- (b) the making of a winding-up order at any of the following times, that is to say—
- [^{F15}(i) immediately upon the appointment of an administrator in respect of the person ceasing to have effect;]
- (ii) when that person is being wound up voluntarily;
- (iii) when that person is in administrative receivership;
- or
- (c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.
- (4) For the purposes of this paragraph a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person.
- (5) In this paragraph—
- “administration order” means an administration order under [^{F16}Schedule B1 to] the ^{M5}Insolvency Act 1986 or Article 21 of the ^{M6} Insolvency (Northern Ireland) Order 1989;
- “administrative receiver” means an administrative receiver within the meaning of section 251 of that Act or Article 5(1) of that Order.

Textual Amendments

- F10** Words in Sch. 6 para. 75(2)(a) inserted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 32(a)** (with art. 6)
- F11** Sch. 6 para. 75(2)(e)(i) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 6 para. 2(14)(a)** (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F12** Word in Sch. 6 para. 75(2)(i) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 23(a)**
- F13** Words in Sch. 6 para. 75(3)(a) omitted (15.9.2003) by virtue of Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 32(b)(i)** (with art. 6)
- F14** Words in Sch. 6 para. 75(3)(a) inserted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 32(b)(ii)** (with art. 6)
- F15** Sch. 6 para. 75(3)(b)(i) substituted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 32(c)** (with art. 6)
- F16** Words in Sch. 6 para. 75(5) substituted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 32(d)** (with art. 6)

Marginal Citations

- M3** 1986 c. 45.

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- M4** S.I. 1989/2405 (N.I. 19).
M5 1986 c. 45.
M6 S.I. 1989/2405)N.I. 19.

Part VI: supplemental provisions

- 76 (1) Any notification of an assessment under any provision of this Part of this Schedule to a person's representative shall be treated for the purposes of this Schedule as notification to the person in relation to whom the representative acts.
- (2) In this paragraph "representative", in relation to any person, means—
- (a) any of that person's personal representatives;
 - (b) that person's trustee in bankruptcy or liquidator;
 - (c) any person holding office as a receiver in relation to that person or any of his property;
 - (d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.
- (3) In this paragraph "trustee in bankruptcy" includes, as respects Scotland—
- [^{F17}(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;] and
 - (b) a trustee acting under a trust deed (within the meaning of that Act).
- (4) The powers conferred by paragraphs 73 and 74 are without prejudice to any power of the Commissioners to provide by tax credit regulations for any amount to be set against another.

Textual Amendments

- F17** Sch. 6 para. 76(3)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 23(b)**

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2000, Part VI.