

*Status: Point in time view as at 17/07/2012.*

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## SCHEDULES

### SCHEDULE 6

#### 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

### PART XIII

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Security for levy*

- 139 (1) Where it appears to the Commissioners necessary to do so for the protection of the revenue they may require any person who is or is required to be registered for the purposes of the levy to give security, or further security, for the payment of any levy which is or may become due from him.
- (2) The power of the Commissioners to require any security, or further security, under this paragraph shall be a power to require security, or further security, of such amount and in such manner as they may determine.
- (3) A person who is liable to account for the levy on a taxable supply that he makes is guilty of an offence if, at the time the supply is made—
- he has been required to give security under this paragraph, and
  - he has not complied with that requirement.
- (4) A person who is liable to account for the levy on a taxable supply that another person makes to him is guilty of an offence if he makes any arrangements for the making of the supply at a time when—
- he has been required to give security under this paragraph, and
  - he has not complied with that requirement.
- (5) A person guilty of an offence under this paragraph shall be liable, on summary conviction, to a penalty of level 5 on the standard scale.
- (6) Sections 145 to 155 of the <sup>M1</sup>Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to an offence under this paragraph as they apply in relation to offences and penalties under the customs and excise Acts.

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#### Marginal Citations

**M1** 1979 c. 2.

#### *Destination of receipts*

<sup>F1</sup>140 .....

#### Textual Amendments

**F1** Sch. 6 para. 140 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), Sch. 4 para. 81, [Sch. 5](#); S.I. 2005/1126, art. 2(2)(h)(i)

#### *Provisional collection of levy*

<sup>F2</sup>141 .....

#### Textual Amendments

**F2** Sch. 6 para. 141 repealed (11.5.2001) by [2001 c. 9](#), s. 110, [Sch. 33 Pt. 3\(3\)](#)

#### <sup>F3</sup>*[Invoices incorrectly showing levy due*

#### Textual Amendments

**F3** Sch. 6 para. 141A inserted (24.7.2002 with application as mentioned in [s. 128\(2\)](#) of the amending Act) by [2002 c. 23](#), [s. 128](#)

141A (1) This paragraph applies where—

- (a) a person issues an invoice showing an amount as levy chargeable on a supply, and
- (b) no levy is chargeable on the supply, or the amount chargeable is less than the amount shown.

(2) The person shall be liable to a penalty unless he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inclusion in the invoice of the false information.

(3) The amount of the penalty is £50 or, if more, the following amount—

- (a) where no levy is chargeable, the amount shown as chargeable;
- (b) where an amount of levy is chargeable, the difference between that amount and the amount shown as chargeable.

(4) It is irrelevant for the purposes of sub-paragraph (1) whether or not the supply shown on the invoice actually takes place or has taken place.

(5) A reference in this paragraph to an invoice is a reference to any kind of invoice (and not just a climate change levy accounting document).]

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*Adjustment of contracts*

- 142 (1) Sub-paragraph (2) applies in the case of a contract for the supply of a taxable commodity if—
- (a) the contract is entered into before 1st April 2001 (whether before or after the passing of this Act) or at a time when supplies such as are provided for by the contract are not taxable supplies, but
  - (b) supplies falling to be made under the contract will be, or become or will become, taxable supplies.
- (2) The supplier of the commodity may unilaterally vary the contract by adjusting the price chargeable for any supply made under the contract if he does so for the purpose of passing on, to the person liable to pay for the supply, the burden (or any part of the burden) of the levy for which the supplier is liable to account on the supply.
- (3) Sub-paragraph (4) applies in the case of a contract for the supply of a taxable commodity if it provides (whether as a result of a variation under sub-paragraph (2) or otherwise) for the passing on, to the person liable to pay for the supply, of the burden (or any part of the burden) of any levy for which the supplier is liable to account on the supply.
- (4) The supplier of the commodity may unilaterally vary the contract by adjusting the price chargeable for any supply made under the contract if he does so for the purpose of giving effect (to any extent) to—
- (a) any change in the rate at which levy is charged on the supply;
  - (b) levy ceasing to be chargeable on the supply.
- (5) The powers conferred by this paragraph are in addition to any contractual powers.

*Climate change levy accounting documents*

- 143 (1) Provision may be made by regulations requiring registered persons who make taxable supplies—
- (a) in prescribed cases, or
  - (b) to persons of prescribed descriptions,
- to provide the persons supplied with climate change levy accounting documents.
- (2) For the purposes of this Schedule a “climate change levy accounting document” for a taxable supply is an invoice—
- <sup>F4</sup>(a) .....
  - (b) stating the date on which it is issued, and
  - (c) containing the required statements.
- (3) For the purposes of sub-paragraph (2)(c) “the required statements” means—
- (a) in the case of a climate change levy accounting document issued under paragraph 27, the statements required by paragraph 27(5);
  - (b) in the case of a climate change levy accounting document whose provision is required by regulations, statements of prescribed particulars of or relating to—
    - (i) the supply,
    - (ii) the persons by and to whom the supply is made, and
    - (iii) the levy chargeable.

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- (4) Where regulations make provision requiring a climate change levy accounting document to be provided in connection with any description of supply, regulations may make provision for—
- (a) requiring the accounting document to be provided within a prescribed time after, or at a prescribed time before, the supply is treated as taking place;
  - (b) allowing an accounting document to be provided later than required by the regulations where it is provided in accordance with general or special directions given by the Commissioners.
- (5) Regulations may make provision conferring power on the Commissioners to allow the requirements of any regulations as to the statements to be contained in a climate change levy accounting document to be relaxed or dispensed with.
- (6) Regulations may make provision for allowing a climate change levy accounting document required to be issued under paragraph 27 to be issued later than the time applicable under paragraph 27(2) where it is issued in accordance with general or special directions given by the Commissioners.
- (7) In this paragraph “regulations” means regulations made by the Commissioners.

#### Textual Amendments

**F4** Sch. 6 para. 143(2)(a) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 150

#### *Service of notices etc.*

- 144 (1) Any notice, notification or requirement that is to be or may be served on, given to or imposed on any person for the purposes of any provision made by or under this Schedule may be served, given or imposed by sending it to that person or his tax representative by post in a letter addressed to that person or his representative at the latest or usual residence or place of business of that person or representative.
- (2) Any direction required or authorised by or under this Schedule to be given by the Commissioners may be given by sending it by post in a letter addressed to each person affected by it at his latest or usual residence or place of business.

#### *Variation and withdrawal of directions etc.*

- 145 Any direction, notice or notification required or authorised by or under this Schedule to be given by the Commissioners may be withdrawn or varied by them by a direction, notice or notification given in the same manner as the one withdrawn or varied.

#### *Regulations and orders*

- 146 (1) Any power under this Schedule to make regulations shall be exercisable by statutory instrument.
- (2) A statutory instrument that—
- (a) contains regulations made under this Schedule, and
  - (b) is not subject to a requirement that a draft of the instrument be laid before Parliament and approved by a resolution of the House of Commons,

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shall be subject to annulment in pursuance of a resolution of the House of Commons.

- (3) A statutory instrument that contains (whether alone or with other provisions) regulations under paragraph 3(3), 14(3), 15(4)(a), 16, 18(2), <sup>F5</sup>... 52, 113(1), 148(4), 149 or 151(2) (regulations made by the Treasury) shall not be made unless a draft of the statutory instrument containing the regulations has been laid before Parliament and approved by a resolution of the House of Commons.
- (4) Where regulations under this Schedule made by the Commissioners impose a relevant requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable, subject to sub-paragraph (5), to a penalty of £250.
- (5) Where by reason of any conduct—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 98 [<sup>F6</sup>or to a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)],
- that person shall not by reason of that conduct be liable also to a penalty under any regulations under this Schedule.
- (6) In sub-paragraph (4) “relevant requirement” means any requirement other than one the penalty for a contravention of which is specified in paragraph 41(3), 114(3) or 125(6).
- (7) A power under this Schedule to make any provision by regulations—
- (a) may be exercised so as to apply the provision only in such cases as may be described in the regulations;
  - (b) may be exercised so as to make different provision for different cases or descriptions of case; and
  - (c) shall include power by the regulations to make such supplementary, incidental, consequential or transitional provision as the authority making the regulations may think fit.

#### Textual Amendments

- F5** Word in [Sch. 6 para. 146\(3\)](#) omitted (with effect in accordance with [Sch. 30 para. 19](#) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 30 para. 15](#)
- F6** Words in [Sch. 6 para. 146\(5\)\(b\)](#) 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. 20\(7\)](#)

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