



# Finance Act 2009

## 2009 CHAPTER 10

### PART 7

#### ADMINISTRATION

##### *Interest*

#### **101 Late payment interest on sums due to HMRC**

- (1) This section applies to any amount that is payable by a person to HMRC under or by virtue of an enactment.
- (2) But this section does not apply to—
  - (a) an amount of corporation tax,
  - (b) an amount of petroleum revenue tax, or
  - (c) an amount of any description specified in an order made by the Treasury.
- (3) An amount to which this section applies carries interest at the late payment interest rate from the late payment interest start date until the date of payment.
- (4) The late payment interest start date in respect of any amount is the date on which that amount becomes due and payable.
- (5) In Schedule 53—
  - (a) Part 1 makes special provision as to the amount on which late payment interest is calculated,
  - (b) Part 2 makes special provision as to the late payment interest start date,
  - (c) Part 3 makes special provision as to the date to which late payment interest runs, and
  - (d) Part 4 makes provision about the effect that the giving of a relief has on late payment interest.
- (6) Subsection (3) applies even if the late payment interest start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

*Status: Point in time view as at 01/04/2015.*

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- (7) Late payment interest is to be paid without any deduction of income tax.
- (8) Late payment interest is not payable on late payment interest.
- (9) For the purposes of this section any reference to the payment of an amount to HMRC includes a reference to its being set off against an amount payable by HMRC (and, accordingly, the reference to the date on which an amount is paid includes a reference to the date from which the set-off takes effect).
- [<sup>F1</sup>(10) The reference in subsection (1) to amounts payable to HMRC includes—
- (a) amounts of UKVAT payable under a non-UK special scheme;
  - (b) amounts of UKVAT payable under a special scheme;
- and references in Schedule 53 to amounts due or payable to HMRC are to be read accordingly.
- (11) In subsection (10)—
- (a) expressions used in paragraph (a) have the meaning given by paragraph 23(1) of Schedule 3B to VATA 1994 (non-Union scheme);
  - (b) expressions used in paragraph (b) have the meaning given by paragraph 38(1) of Schedule 3BA to VATA 1994 (Union scheme).]

#### Textual Amendments

- F1** S. 101(10)(11) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 20\(2\)](#)

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

- C1** S. 101 applied by S.R. 2009/128, reg. 34 (as substituted (N.I.) (31.10.2011) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/137\)](#), regs. 1(2), 7)
- C2** S. 101 applied by S.I. 2009/470 reg. 39(2)(b) (as substituted (31.10.2011) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2011 \(S.I. 2011/784\)](#), regs. 1(2), 8)
- C3** S. 101 applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 14
- C4** S. 101 applied (with modifications) by 1992 c.7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 12](#))
- C5** S. 101 applied (with modifications) by 1992 c. 4, s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 3](#))

#### Commencement Information

- I1** S. 101 in force at 31.8.2010 for specified purposes by [S.I. 2010/1878](#), [art. 2](#) (with art. 3)
- I2** S. 101 in force at 6.10.2011 for specified purposes by [S.I. 2011/2391](#), [art. 2\(c\)](#)
- I3** S. 101 in force at 31.10.2011 for specified purposes by [S.I. 2011/701](#), [art. 3\(1\)](#) (with art. 4)
- I4** S. 101 in force at 1.2.2013 for specified purposes by [S.I. 2013/67](#), [art. 2](#)
- I5** S. 101 in force at 1.4.2013 for specified purposes by [S.I. 2013/280](#), [art. 2](#)
- I6** S. 101 in force at 1.10.2013 for specified purposes by [S.I. 2013/2472](#), [art. 2](#)
- I7** S. 101 in force at 6.5.2014 for specified purposes by [S.I. 2014/992](#), [art. 3\(1\)](#)  
S. 101 in force retrospectively at 6.5.2014 for further specified purposes by [Finance Act 2019 \(c. 1\)](#), [s. 88\(6\)](#)
- I8** S. 101 in force at 1.1.2015 for specified purposes by [S.I. 2014/3269](#), [art. 4\(1\)](#) (with art. 4(2))
- I9** S. 101 in force at 1.1.2015 for specified purposes by [S.I. 2014/3324](#), [art. 3](#)
- I10** S. 101 in force at 1.4.2015 for specified purposes by [S.I. 2015/974](#), [art. 2](#)

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## 102 Repayment interest on sums to be paid by HMRC

- (1) This section applies to—
  - (a) any amount that is payable by HMRC to any person under or by virtue of an enactment, and
  - (b) a relevant amount paid by a person to HMRC that is repaid by HMRC to that person or to another person.
- (2) But this section does not apply to—
  - (a) an amount constituting a repayment of corporation tax,
  - (b) an amount constituting a repayment of petroleum revenue tax, or
  - (c) an amount of any description specified in an order made by the Treasury.
- (3) An amount to which this section applies carries interest at the repayment interest rate from the repayment interest start date until the date on which the payment or repayment is made.
- (4) In Schedule 54—
  - (a) Parts 1 and 2 define the repayment interest start date, and
  - (b) Part 3 makes supplementary provision.
- (5) Subsection (3) applies even if the repayment interest start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (6) Repayment interest is not payable on an amount payable in consequence of an order or judgment of a court having power to allow interest on the amount.
- (7) Repayment interest is not payable on repayment interest.
- (8) For the purposes of this section—
  - (a) “relevant amount” means any sum that was paid in connection with any liability (including any purported or anticipated liability) to make a payment to HMRC under or by virtue of an enactment, and
  - (b) any reference to the payment or repayment of an amount by HMRC includes a reference to its being set off against an amount owed to HMRC (and, accordingly, the reference to the date on which an amount is paid or repaid by HMRC includes a reference to the date from which the set-off takes effect).

### Modifications etc. (not altering text)

- C6** S. 102 applied by S.I. 2009/470 reg. 39(5)(b) (as substituted (31.10.2011) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2011](#) (S.I. 2011/784), regs. 1(2), **8**)
- C7** S. 102 modified (6.4.2014) by [National Insurance Contributions Act 2014](#) (c. 7), **ss. 4(9)**, 8
- C8** S. 102 applied (with modifications) by 1992 c.7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015](#) (c. 5), **Sch. 1 para. 12**)
- C9** S. 102 applied (with modifications) by 1992 c. 4, s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015](#) (c. 5), **Sch. 1 para. 3**)

### Commencement Information

- I11** S. 102 in force at 31.8.2010 for specified purposes by [S.I. 2010/1878](#), **art. 2**
- I12** S. 102 in force at 6.10.2011 for specified purposes by [S.I. 2011/2391](#), **art. 2(c)**
- I13** S. 102 in force at 31.10.2011 for specified purposes by [S.I. 2011/701](#), **art. 3(2)** (with art. 4)

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- I14** S. 102 in force at 1.2.2013 for specified purposes by [S.I. 2013/67, art. 2](#)
- I15** S. 102 in force at 1.10.2013 for specified purposes by [S.I. 2013/2472, art. 2](#)
- I16** S. 102 in force at 6.5.2014 for specified purposes by [S.I. 2014/992, art. 3\(2\)](#)
- I17** S. 102 in force at 1.1.2015 for specified purposes by [S.I. 2014/3269, art. 4\(1\)](#) (with [art. 4\(2\)](#))
- I18** S. 102 in force at 1.1.2015 for specified purposes by [S.I. 2014/3324, art. 3](#)
- I19** S. 102 in force at 1.4.2015 for specified purposes by [S.I. 2015/974, art. 2](#)

### 103 Rates of interest

- (1) The late payment interest rate is the rate provided for in regulations made by the Treasury under this subsection.
- (2) The repayment interest rate is the rate provided for in regulations made by the Treasury under this subsection.
- (3) Regulations under subsection (1) or (2)—
  - (a) may make different provision for different purposes,
  - (b) may either themselves specify a rate of interest or make provision for such a rate to be determined (and to change from time to time) by reference to such rate, or the average of such rates, as may be referred to in the regulations,
  - (c) may provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) may provide for circumstances in which alteration of a rate of interest is or is not to be take place, and
  - (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.

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

- C10** S. 103 applied by S.R. 2009/128, reg. 34 (as substituted (N.I.) (31.10.2011) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/137\)](#), regs. 1(2), 7)
- C11** S. 103 applied by S.I. 2009/470 reg. 39(2)(b)(5)(b) (as substituted (31.10.2011) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2011 \(S.I. 2011/784\)](#), regs. 1(2), 8)

#### Commencement Information

- I20** S. 103 in force at 31.8.2010 for specified purposes by [S.I. 2010/1878, art. 2](#)
- I21** S. 103 in force at 6.10.2011 in so far as not already in force by [S.I. 2011/2401, art. 2](#)
- I22** S. 103 in force at 6.10.2011 for specified purposes by [S.I. 2011/2391, art. 2\(c\)](#)
- I23** S. 103 in force at 31.10.2011 for specified purposes by [S.I. 2011/701, art. 3\(2\)](#) (with [art. 4](#)) (see also [S.I. 2011/2401](#), art. 2(2))
- I24** S. 103 in force at 31.10.2011 for specified purposes by [S.I. 2011/701, art. 3\(1\)](#) (with [art. 4](#)) (see also [S.I. 2011/2401](#), art. 2(2))

### 104 Supplementary

- (1) In sections 101 to 103—
 

“HMRC” means Her Majesty's Revenue and Customs;

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- “late payment interest” means interest payable under section 101;  
“repayment interest” means interest payable under section 102;  
“revenue” has the meaning given in section 5(4) of CRCA 2005.
- (2) A reference to the date on which an amount becomes due and payable is a reference to the date (however described) on or before which the amount must be paid.
- (3) Sections 101 to 103 come into force on such day as the Treasury may by order appoint.
- (4) An order under subsection (3)—
- (a) may commence a provision generally or only for specified purposes, and
  - (b) may appoint different days for different provisions or for different purposes.
- (5) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, those sections.
- (6) An order under subsection (5) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (7) An order under subsection (5) may make different provision for different purposes.
- (8) The following are to be made by statutory instrument—
- (a) orders under section 101(2) or 102(2),
  - (b) regulations under section 103(1) or (2), and
  - (c) orders under subsection (3) or (5).
- (9) A statutory instrument containing—
- (a) an order under section 101(2) or 102(2),
  - (b) regulations under section 103(1) or (2),
  - (c) an order under subsection (5) which includes provision amending or repealing any provision of an Act,
- is subject to annulment in pursuance of a resolution of the House of Commons.

## **105 Miscellaneous amendments**

- (1) Section 239 of ITA 2007 (date from which interest is chargeable when EIS relief is withdrawn or reduced) is amended as follows.
- (2) In subsection (1)—
- (a) for “in column 1 of the following table” substitute “ in subsection (2) ”,
  - (b) for “given by the corresponding entry in column 2 of the table” substitute “ 31 January next following the tax year for which the assessment is made ”, and
  - (c) omit the table.
- (3) For subsection (2) substitute—
- “(2) The provisions are—  
section 163,  
section 164,  
section 173A,  
any of sections 181 to 188,

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section 209,  
section 212(1),  
section 213,  
section 224,  
section 232, and  
section 233.”

- (4) In the following provisions, for the words from “the same rate” to the end substitute “the rate applicable under section 178 of the Finance Act 1989 ”
- (a) section 48(1) of FA 1975 (interest on repayment of estate duty), and
  - (b) section 235(1) of IHTA 1984 (interest on overpaid inheritance tax).
- (5) In section 178(2) of FA 1989 (setting of rates of interest)—
- (a) after paragraph (g) insert—
    - “(ga) section 48(1) of the Finance Act 1975,” and
  - (b) in paragraph (k), after “sections 233” insert “ , 235(1) ”.
- (6) The following provisions (which require HMRC to make an order specifying the new rate of interest when that rate is changed by operation of regulations) are omitted—
- (a) section 178(5) of FA 1989, and
  - (b) section 197(5) of FA 1996.

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