



Finance Act 2009

2009 CHAPTER 10

PART 7

ADMINISTRATION

Penalties

106 Penalties for failure to make returns etc

- (1) Schedule 55 contains provision for imposing penalties on persons in respect of failures to make returns and other documents relating to liabilities for tax.
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
 - (a) may commence a provision generally or only for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (4) 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, Schedule 55.
- (5) An order under subsection (4) 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).
- (6) An order under subsection (4) may make different provision for different purposes.
- (7) An order under this section is to be made by statutory instrument.
- (8) A statutory instrument containing an order under subsection (4) 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.

Status: Point in time view as at 01/04/2011.

Changes to legislation: Finance Act 2009, Cross Heading: Penalties is up to date with all changes known to be in force on or before 11 July 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)

107 Penalties for failure to pay tax

- (1) Schedule 56 contains provision for imposing penalties on persons in respect of failures to comply with obligations to pay tax.
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
 - (a) may commence a provision generally or only for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (4) 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, Schedule 56.
- (5) An order under subsection (4) 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).
- (6) An order under subsection (4) may make different provision for different purposes.
- (7) An order under this section is to be made by statutory instrument.
- (8) A statutory instrument containing an order under subsection (4) 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.

108 Suspension of penalties during currency of agreement for deferred payment

- (1) This section applies if—
 - (a) a person (“P”) fails to pay an amount of tax falling within the Table in subsection (5) when it becomes due and payable,
 - (b) P makes a request to an officer of Revenue and Customs that payment of the amount of tax be deferred, and
 - (c) an officer of Revenue and Customs agrees that payment of that amount may be deferred for a period (“the deferral period”).
- (2) P is not liable to a penalty for failing to pay the amount mentioned in subsection (1) if—
 - (a) the penalty falls within the Table, and
 - (b) P would (apart from this subsection) become liable to it between the date on which P makes the request and the end of the deferral period.
- (3) But if—
 - (a) P breaks the agreement (see subsection (4)), and
 - (b) an officer of Revenue and Customs serves on P a notice specifying any penalty to which P would become liable apart from subsection (2),

P becomes liable, at the date of the notice, to that penalty.
- (4) P breaks an agreement if—
 - (a) P fails to pay the amount of tax in question when the deferral period ends, or
 - (b) the deferral is subject to P complying with a condition (including a condition that part of the amount be paid during the deferral period) and P fails to comply with it.

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(5) The taxes and penalties referred to in subsections (1) and (2) are—

Tax	Penalty
F1	F1
...	...
Value added tax	Surcharge under section 59(4) or 59A(4) of VATA 1994
Aggregates levy	Penalty interest under paragraph 5 of Schedule 5 to FA 2001
Climate change levy	Penalty interest under paragraph 82 of Schedule 6 to FA 2000
Landfill tax	Penalty interest under paragraph 27(2) of Schedule 5 to FA 1996
Insurance premium tax	Penalty under paragraph 15(2) or (3) of Schedule 7 to FA 1994 which is payable by virtue of paragraph 15(1)(a) of that Schedule.
Any duty of excise	Penalty under section 9(2) or (3) of FA 1994 which is imposed for a failure to pay an amount of any duty of excise or an amount payable on account of any such duty.

- (6) If the agreement mentioned in subsection (1)(c) is varied at any time by a further agreement between P and an officer of Revenue and Customs, this section applies from that time to the agreement as varied.
- (7) The Treasury may by order amend the Table by adding or removing a tax or a penalty.
- (8) An order under subsection (7) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section, except in the entries in the Table, “penalty” includes surcharge and penalty interest.
- (11) This section has effect where the agreement mentioned in subsection (1)(c) is made on or after 24 November 2008.

Textual Amendments

- F1** Words in s. 108(5) omitted (1.4.2011) by virtue of [The Finance Act 2009, Schedules 55 and 56 \(Income Tax Self Assessment and Pension Schemes\) \(Appointed Days and Consequential and Savings Provisions\) Order 2011 \(S.I. 2011/702\)](#), arts. 1(1), **15(b)** (with arts. 20, 22)

Modifications etc. (not altering text)

- C1** S. 108 applied (with modifications) by S.I. 2005/2045, reg. 48(8) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2009 \(S.I. 2009/2030\)](#), regs. 1(2), **2(2)**)

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- C2** S. 108 applied (with modifications) by S.I. 2003/2682, reg. 203(8) (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2), 4)
- C3** S. 108 applied (with modifications) by S.I. 2001/1004, reg. 90K(8) (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [Social Security \(Contributions\) \(Amendment No.4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), 3)

109 Miscellaneous amendments

Schedule 57 contains amendments of Schedule 24 to FA 2007 (penalties for errors), Schedule 41 to FA 2008 (penalties for failure to notify and certain other wrongdoing) and certain other enactments relating to penalties.

Status:

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