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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order appoints 1st April 2009 as the day on which Schedule 40 to the Finance Act 2008 (c. 9) (“Schedule 40”) comes into force. It also contains transitional provisions and consequential amendments. Schedule 40 extends the penalty regime for incorrect returns contained in Schedule 24 to the Finance Act 2007 (c. 11) to cover the additional taxes and duties it inserts into the Table in Schedule 24. It also introduces a new penalty where an error in a taxpayer’s document is attributable to a third party, as well as making other amendments.

Article 1 provides for citation and interpretation.

Article 2 appoints 1st April 2009 as the day on which Schedule 40 comes into force.

Article 3 provides for the coming into force on the dates specified, and in relation to the tax periods, claims or other liabilities to pay tax specified, of the penalties for making incorrect returns in relation to the new taxes and duties.

Article 4 provides for the coming into force on the dates specified, and in relation to the tax periods, claims or other liabilities to pay tax specified, of the penalty in relation to all the taxes and duties now covered by Schedule 24 where an error in a taxpayer’s document is attributable to a third party .

Article 5 provides for the coming into force on the date specified of the penalty for failure to notify an under-assessment in relation to the new taxes and duties.

Article 6 preserves the existing penalty provisions for evasion within the stated regimes where the dishonest conduct does not relate to inaccurate returns to, or under-assessments by, HMRC.

Article 7 preserves the existing penalty provisions for VAT evasion involving dishonest conduct which does not relate to inaccuracy in a document or a failure to notify HMRC of an under-assessment by HMRC.

Articles 8 and 9 provide for consequential amendments to primary and secondary legislation.

An Impact Assessment on the wider penalties reform was published by HMRC on 27th March 2008 and is available from HMRC’S website at <http://www.hmrc.gov.uk/ria/penalties.pdf> .