

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2001, SCHEDULE 7. (See end of Document for details)*

SCHEDULES

SCHEDULE 7

Section 29.

AGGREGATES LEVY: INFORMATION AND EVIDENCE ETC

Provision of information

^{F1}1

Textual Amendments

F1 Sch. 7 para. 1 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 9](#) (with art. 6)

Records

- 2 (1) The Commissioners may by regulations impose obligations to keep records on persons who are or are required to be registered and on persons who would be so required but for an exemption by virtue of regulations under section 24(4) of this Act.
- (2) Regulations under this paragraph may be framed by reference to such records as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Regulations under this paragraph may—
- (a) require any records kept in pursuance of the regulations to be preserved for such period, not exceeding six years, as may be specified in the regulations;
 - (b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations;
 - (c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.
- [^{F2}(4) A duty under regulations under this paragraph to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners.]
- (6) Subject to sub-paragraphs (7) and (8) below, a person who fails to preserve any record in compliance with—
- (a) any regulations under this paragraph, or
 - (b) any notice, direction or requirement given or imposed under such regulations,

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shall be liable to a penalty of £250.

- (7) A failure such as is mentioned in sub-paragraph (6) above shall not give rise to any penalty under that sub-paragraph if the person required to preserve the record satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (8) Where, by reason of any such failure by any person as is mentioned in sub-paragraph (6) above—
- (a) that person is convicted of an offence (whether under this Act or otherwise), or
 - (b) that person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion) [^{F3}or 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 failure be liable also to a penalty under this paragraph.
- (9) The Commissioners may if they think fit at any time modify or withdraw any ^{F4}... requirement ^{F4}... imposed for the purposes of this paragraph.

Textual Amendments

- F2** Sch. 7 para. 2(4) substituted for Sch. 7 para. 2(4)(5) (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 16\(2\)](#); [S.I. 2010/815, art. 2](#)
- F3** Words in Sch. 7 para. 2(8)(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. 25](#)
- F4** Words in Sch. 7 para. 2(9) omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 16\(3\)](#); [S.I. 2010/815, art. 2](#)

Evidence of records that are required to be preserved

^{F53}

Textual Amendments

- F5** Sch. 7 para. 3 omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 17](#); [S.I. 2010/815, art. 2](#)

Production of documents

^{F64}

Textual Amendments

- F6** Sch. 7 para. 4 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 9](#) (with art. 6)

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Powers in relation to documents produced

F75

Textual Amendments

F7 Sch. 7 para. 5 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 9**

Entry and inspection

F86

Textual Amendments

F8 Sch. 7 para. 6 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 9**

Entry and search

F97

Textual Amendments

F9 Sch. 7 para. 7 repealed (1.12.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 22 para. 12(b), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 3(a)

Order for access to recorded information etc.

- 8 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46)) is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with aggregates levy is being, has been or is about to be committed, and
 - (b) that any recorded information (including any document of any nature at all) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
 - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of seven days beginning with the date of the order, or the end of such longer period as the order may specify.

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- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information—
 - (a) in a form in which it is visible and legible; and
 - (b) if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to the preceding paragraphs of this Schedule.

Removal of documents etc.

- 9 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 7 or 8 above shall, if so requested by a person showing himself—
 - (a) to be the occupier of premises from which it was removed, or
 - (b) to have had custody or control of it immediately before the removal,
provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be allowed access to anything which—
 - (a) has been removed by an authorised person, and
 - (b) is retained by the Commissioners for the purposes of investigating an offence,
is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
 - (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
 - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above, the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to allow access to anything, or to supply a photograph or copy of anything, if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
 - (a) that investigation;

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- (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
 - (c) any criminal proceedings which may be brought as a result of the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge.

Enforcement of paragraph 9

- 10 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 9 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall not be made except—
- (a) in the case of a failure to comply with any of the requirements imposed by paragraph 9(1) and (2) above—
 - (i) by the occupier of the premises from which the thing in question was removed; or
 - (ii) by the person who had custody or control of it immediately before it was so removed;
 - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
 - (b) in Scotland, the sheriff;
 - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

Power to take samples

- 11 (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from material which he has reasonable cause to believe is aggregate which is intended to be, is being, or has been subjected to exploitation in [^{F10}England, Wales or Northern Ireland], such samples as he may require with a view to determining how the material ought to be treated, or to have been treated, for the purposes of aggregates levy.
- (2) Any sample taken under this paragraph shall be disposed of in such manner as the Commissioners may direct.

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Textual Amendments

F10 Words in Sch. 7 para. 11(1) substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\)](#), [Sch. 1 para. 12\(2\)](#)

Evidence by certificate

- 12 (1) In any proceedings a certificate of the Commissioners—
- (a) that a person was or was not at any time registered, [^{F11} or]
 - (b) that any return required by regulations made under section 25 of this Act has not been made or had not been made at any time,
 - ^{F12}(c)
 - ^{F13}(d)
- shall be evidence or, in Scotland, sufficient evidence of that fact.
- (2) A photograph of any document provided to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be taken to be such a certificate unless the contrary is shown.

Textual Amendments

F11 Word in Sch. 7 para. 12(1)(a) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), Sch. 44 para. 9\(a\)](#)
F12 Sch. 7 para. 12(1)(c) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 9\(b\)](#)
F13 Sch. 7 para. 12(1)(d) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 9\(b\)](#)

Inducements to provide information

- 13 (1) This paragraph applies—
- (a) to any criminal proceedings against a person in respect of an offence in connection with or in relation to aggregates levy; and
 - (b) to any proceedings against a person for the recovery of any sum due from him in connection with or in relation to that levy.
- (2) Statements made or documents produced or provided by or on behalf of a person shall not be inadmissible in any proceedings to which this paragraph applies by reason only that—
- (a) a matter falling within sub-paragraph (3) or (4) below has been drawn to that person's attention; and
 - (b) he was or may have been induced, as a result, to make the statements or to produce or provide the documents.
- (3) The matters falling within this sub-paragraph are—
- (a) that, in relation to aggregates levy, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings;

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- (b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person—
 - (i) has made a full confession of any dishonest conduct to which he has been a party; and
 - (ii) has otherwise co-operated to the full with any investigation.
- (4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power under any provision of this Part of this Act to reduce a penalty.

Disclosure of information

- 14 (1) Notwithstanding any obligation not to disclose information that would otherwise apply but subject to sub-paragraph (2) below, the Commissioners may disclose any information obtained or held by them in or in connection with the carrying out of their functions in relation to aggregates levy to any of the following—
- (a) any Minister of the Crown;
 - (b) the Scottish Ministers;
 - (c) any Minister, within the meaning of the Northern Ireland Act 1998 (c. 47), or any Northern Ireland department;
 - (d) the National Assembly for Wales;
 - (e) the Environment Agency;
 - (f) the Scottish Environment Protection Agency;
 - (g) a mineral planning authority in England and Wales (within the meaning of the Town and Country Planning Act 1990 (c. 8));
 - (h) a planning authority in Scotland;
 - (i) a district council in Northern Ireland;
 - (j) an authorised officer of any person mentioned in paragraphs (a) to (i) above.
- (2) Information shall not be disclosed under sub-paragraph (1) above except for the purpose of assisting a person falling within paragraphs (a) to (j) of that sub-paragraph in the performance of his duties.
- (3) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above, any person mentioned in sub-paragraph (1)(a) to (j) above may disclose information—
- (a) to the Commissioners, or
 - (b) to an authorised officer of the Commissioners,
- for the purpose of assisting the Commissioners in the performance of duties in relation to aggregates levy.
- (4) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made; or
 - (b) for the purpose of any proceedings connected with the operation of any provision made by or under any enactment relating to the environment or to aggregates levy.
- (5) References in the preceding provisions of this paragraph to an authorised officer of any person (“the principal”) are to any person who has been designated by the

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principal as a person to and by whom information may be disclosed by virtue of this paragraph.

- (6) Where the principal is a person falling within any of paragraphs (a) to (c) above, the principal shall notify the Commissioners in writing of the name of any person designated by the principal for the purposes of this paragraph.
- (7) No charge may be made for any disclosure made by virtue of this paragraph.
- (8) In this paragraph “enactment” includes an enactment contained in an Act of the Scottish Parliament or in any Northern Ireland legislation.

Interpretation of Schedule

15 In this Schedule—

“authorised person” means any person acting under the authority of the Commissioners;

“connected activities”, in relation to the exploitation of aggregate in [^{F14}England, Wales or Northern Ireland], means any activities carried out—

- (a) for purposes connected with the carrying out of any such exploitation or with any transaction involving the carrying out of any such exploitation; or
- (b) for the purposes of, in connection with or in relation to the carrying on of any business involving any such exploitation.

Textual Amendments

F14 Words in Sch. 7 para. 15 substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 12\(3\)](#)

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