

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

## SCHEDULES

### SCHEDULE 5

Section 50.

#### INDIRECT TAXES: OVERPAYMENTS ETC

#### PART I

#### UNJUST ENRICHMENT

##### *Application of Part I*

- 1 (1) This Part of this Schedule has effect for the purposes of the following provisions (which make it a defence to a claim for repayment that the repayment would unjustly enrich the claimant), namely—
- (a) section 137A(3) of the <sup>M1</sup>Customs and Excise Management Act 1979 (excise duties);
  - (b) paragraph 8(3) of Schedule 7 to the <sup>M2</sup>Finance Act 1994 (insurance premium tax); and
  - (c) paragraph 14(3) of Schedule 5 to the <sup>M3</sup>Finance Act 1996 (landfill tax).
- (2) Those provisions are referred to in this Part of this Schedule as unjust enrichment provisions.
- (3) In this Part of this Schedule—
- “the Commissioners” means the Commissioners of Customs and Excise;
  - “relevant repayment provision” means—
    - (a) section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid excise duty);
    - (b) paragraph 8 of Schedule 7 to the Finance Act 1994 (recovery of overpaid insurance premium tax); or
    - (c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax);
  - “relevant tax” means any duty of excise, insurance premium tax or landfill tax; and
  - “subordinate legislation” has the same meaning as in the <sup>M4</sup>Interpretation Act 1978.

#### Annotations:

#### Marginal Citations

M1 1979 c. 2.

M2 1994 c. 9.

M3 1996 c. 8.

---

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

---

**M4** 1978 c. 30.

*Disregard of business losses*

- 2 (1) This paragraph applies where—
- (a) there is an amount paid by way of relevant tax which (apart from an unjust enrichment provision) would fall to be repaid under a relevant repayment provision to any person (“the taxpayer”), and
  - (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.
- (2) Where, in a case to which this paragraph applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any provisions relating to a relevant tax, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—
- (a) of whether or to what extent the repayment of an amount to the taxpayer would enrich him; or
  - (b) of whether or to what extent any enrichment of the taxpayer would be unjust.
- (3) In sub-paragraph (2) above “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions.
- (4) The reference in sub-paragraph (2) above to provisions relating to a relevant tax is a reference to any provisions of—
- (a) any enactment, subordinate legislation or Community legislation (whether or not still in force) which relates to that tax or to any matter connected with it; or
  - (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.
- (5) This paragraph has effect for the purposes of making any repayment on or after the day on which this Act is passed, even if the claim for that repayment was made before that day.

*Reimbursement arrangements*

- 3 (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of any or all of the unjust enrichment provisions except where the arrangements—
- (a) contain such provision as may be required by the regulations; and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means any arrangements for the purposes of a claim under a relevant repayment provision which—
- (a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be required by regulations under this paragraph to be contained in reimbursement arrangements includes—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
  - (b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
  - (c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this paragraph may impose obligations on such persons as may be specified in the regulations—
- (a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of sub-paragraph (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of sub-paragraph (3)(d) above.
- (5) Regulations under this paragraph may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.
- (6) Regulations under this paragraph may—
- (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and
  - (b) make different provision for different circumstances.
- (7) Regulations under this paragraph may have effect (irrespective of when the claim for repayment was made) for the purposes of the making of any repayment by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.
- (8) Regulations under this paragraph shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

#### *Contravention of requirement to repay Commissioners*

- 4 (1) Where any obligation is imposed by regulations made by virtue of paragraph 3(4) above, a contravention or failure to comply with that obligation shall, to the extent that it relates to amounts repaid under section 137A of the <sup>M5</sup>Customs and Excise Management Act 1979, attract a penalty under section 9 of the Finance Act 1994 (penalties in connection with excise duties).

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (2) For the purposes of Schedule 7 to the <sup>M6</sup>Finance Act 1994 (insurance premium tax), a contravention or failure to comply with an obligation imposed by regulations made by virtue of paragraph 3(4) above shall be deemed, to the extent that it relates to amounts repaid under paragraph 8 of that Schedule (recovery of overpaid insurance premium tax), to be a failure to comply with a requirement falling within paragraph 17(1)(c) of that Schedule (breach of regulations).
- (3) Paragraph 23 of Schedule 5 to the <sup>M7</sup>Finance Act 1996 (power to provide for penalty) shall have effect as if an obligation imposed by regulations made by virtue of paragraph 3(4) above were, to the extent that it relates to amounts repaid under paragraph 14 of that Schedule (recovery of overpaid landfill tax), a requirement imposed by regulations under Part III of that Act; and the provisions of that Schedule in relation to penalties under Part V of that Schedule shall have effect accordingly.

**Annotations:**

**Marginal Citations**

**M5** 1979 c. 2.

**M6** 1994 c. 9.

**M7** 1996 c. 8.

**PART II**

TIME LIMITS

*Repayments*

- 5 (1) For subsection (4) of section 137A of the <sup>M8</sup>Customs and Excise Management Act 1979 (time limit on recovery of overpaid excise duty) there shall be substituted the following subsection—
- “(4) The Commissioners shall not be liable, on a claim made under this section, to repay any amount paid to them more than three years before the making of the claim.”
- (2) For sub-paragraphs (4) and (5) of paragraph 8 of Schedule 7 to the <sup>M9</sup>Finance Act 1994 (time limit on recovery of overpaid insurance premium tax) there shall be substituted the following sub-paragraph—
- “(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than three years before the making of the claim.”
- (3) For sub-paragraph (4) of paragraph 14 of Schedule 5 to the <sup>M10</sup>Finance Act 1996 (time limit on recovery of overpaid landfill tax) there shall be substituted the following sub-paragraph—
- “(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than three years before the making of the claim.”

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

**Annotations:**

**Marginal Citations**

- M8** 1979 c. 2.  
**M9** 1994 c. 9.  
**M10** 1996 c. 8.

*Assessments*

- 6 (1) In each of the enactments specified in sub-paragraph (2) below (which provide for the time limits applying to the making of assessments), for the words “six years”, wherever they occur, there shall be substituted the words “three years”.
- (2) Those enactments are—
- (a) section 12(4)(a) and (5) of the Finance Act 1994 (excise duties);
  - (b) paragraph 26(1) and (4) of Schedule 7 to that Act (insurance premium tax); and
  - (c) paragraph 33(1) and (4) of Schedule 5 to the <sup>M11</sup>Finance Act 1996 (landfill tax).

**Annotations:**

**Marginal Citations**

- M11** 1996 c. 8.

**PART III**

**INTEREST**

*Interest on overpaid air passenger duty*

- 7 (1) Paragraph 9 of Schedule 6 to the Finance Act 1994 (interest payable by the Commissioners in connection with air passenger duty) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) In sub-paragraph (1) above the reference to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied.”
- (3) For sub-paragraph (6) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—
- “(6) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”
- (4) For sub-paragraph (7) there shall be substituted the following sub-paragraph—

---

*Changes to legislation:* There are outstanding changes not yet made by the [legislation.gov.uk](http://legislation.gov.uk) editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

“(7) Any reference in this paragraph to the authorisation by the Commissioners of the payment of any amount includes a reference to the discharge by way of set-off of the Commissioners’ liability to pay that amount.”

- 8 (1) In sub-paragraph (2) of that paragraph (applicable period), the words after paragraph (b) shall be omitted; and the following sub-paragraphs shall be substituted for sub-paragraphs (3) and (4)—

“(2A) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(2B) The reference in sub-paragraph (2A) above to a period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the repayment of the amount on which interest is claimed;
- (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
  - (i) at or before the time of the making of a claim, or
  - (ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant’s entitlement to a repayment, and to interest on the amount of that repayment, to be determined; and

- (c) the making, as part of or in association with either—
  - (i) the claim for interest, or
  - (ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(3) In determining for the purposes of sub-paragraph (2B) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—

- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
- (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
  - (i) that they have received a complete answer to their request for information;
  - (ii) that they have received all that they need in answer to that request; or
  - (iii) that it is unnecessary for them to be provided with any information in answer to that request.”

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

*Interest on overpaid insurance premium tax*

- 9 (1) Paragraph 22 of Schedule 7 to the <sup>M12</sup>Finance Act 1994 (interest payable by the Commissioners in connection with insurance premium tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) In sub-paragraph (1) above—
- (a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
- (b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph.”
- (3) For sub-paragraph (9) of that paragraph (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—
- “(9) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”
- (4) For sub-paragraph (10) there shall be substituted the following sub-paragraph—
- “(10) References in this paragraph to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off of the Commissioners’ liability to pay that amount.”

**Annotations:**

**Marginal Citations**

M12 1994 c. 9.

- 10 (1) For sub-paragraphs (5) to (7) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—
- “(5) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.
- (5A) The reference in sub-paragraph (5) above to a period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

---

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
  - (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
    - (i) at or before the time of the making of a claim, or
    - (ii) subsequently in response to a request for information by the Commissioners,
 with all the information required by them to enable the existence and amount of the claimant’s entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and
  - (c) the making, as part of or in association with either—
    - (i) the claim for interest, or
    - (ii) any claim for the payment or repayment of the amount on which interest is claimed,
 of a claim to anything to which the claimant was not entitled.
- (6) In determining for the purposes of sub-paragraph (5A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.”
- (2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

*Interest on overpaid landfill tax*

- 11 (1) Paragraph 29 of Schedule 5 to the <sup>M13</sup>Finance Act 1996 (interest payable by the Commissioners in connection with landfill tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) In sub-paragraph (1) above—
- (a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of



---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and

(b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph.”

(3) For sub-paragraph (8) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

“(8) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”

(4) For sub-paragraph (9) there shall be substituted the following sub-paragraph—

“(9) References in this paragraph—

- (a) to receiving payment of any amount from the Commissioners, or
- (b) to the authorisation by the Commissioners of the payment of any amount,

include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners’ liability to pay that amount.”

**Annotations:**

**Marginal Citations**

M13 1996 c. 8.

12 (1) For sub-paragraphs (4) to (6) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

“(4) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(4A) The reference in sub-paragraph (4) above to a period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
- (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
  - (i) at or before the time of the making of a claim, or
  - (ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant’s entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

- (c) the making, as part of or in association with either—
  - (i) the claim for interest, or

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (ii) any claim for the payment or repayment of the amount on which interest is claimed,  
of a claim to anything to which the claimant was not entitled.
- (5) In determining for the purposes of sub-paragraph (4A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.”
- (2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

#### PART IV

##### SET-OFF INVOLVING LANDFILL TAX

- 13 (1) In paragraph 42 of Schedule 5 to the <sup>M14</sup>Finance Act 1996 (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—
- “(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of landfill tax to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above.”
- (2) In paragraph 43 of that Schedule (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—
- “(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of any of the taxes under their care and management to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above.”

#### Annotations:

#### Marginal Citations

M14 1996 c. 8.

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

## PART V

### RECOVERY OF EXCESS PAYMENTS BY THE COMMISSIONERS

#### *Assessment for excessive repayment*

- 14 (1) Where—
- (a) any amount has been paid at any time to any person by way of a repayment under a relevant repayment provision, and
  - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person,
- the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.
- (2) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 3(4)(a) above, the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.
- (3) In this paragraph “relevant repayment provision” means—
- (a) section 137A of the <sup>M15</sup>Customs and Excise Management Act 1979 (recovery of overpaid excise duty);
  - (b) paragraph 8 of Schedule 7 to the <sup>M16</sup>Finance Act 1994 (recovery of overpaid insurance premium tax); <sup>F1</sup> . . .
  - (c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax) [<sup>F2</sup>or
  - (d) Part 1 of Schedule 3 to the Finance Act 2001 (payments made and rebates disallowed in error).]

#### **Annotations:**

##### **Amendments (Textual)**

- F1** Word in Sch. 5 para. 14(3)(b) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(2), Sch. 33 Pt. I(4); S.I. 2001/3300, art. 2
- F2** Sch. 5 para. 14(3)(d) and the word “or” immediately preceding inserted (1.11.2001) by 2001 c. 9, s. 15, Sch. 3 para. 19(2); S.I. 2001/3300, art. 2

##### **Marginal Citations**

- M15** 1979 c. 2.  
**M16** 1994 c. 9.

#### *Assessment for overpayments of interest*

- 15 (1) Where—
- (a) any amount has been paid to any person by way of interest under a relevant interest provision, but
  - (b) that person was not entitled to that amount under that provision,
- the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In this paragraph “relevant interest provision” means—
- <sup>F3</sup>(a) .....
  - (b) paragraph 22 of Schedule 7 to that Act (interest payable by the Commissioners on overpayments etc. of insurance premium tax); <sup>F4</sup> . . .
  - (c) paragraph 29 of Schedule 5 to the <sup>M17</sup>Finance Act 1996 (interest payable by the Commissioners on overpayments etc. of landfill tax) [<sup>F5</sup>or.
  - (d) Part 2 of Schedule 3 to the Finance Act 2001 (interest).]

**Annotations:**

**Amendments (Textual)**

- F3** Sch. 5 para. 15(2)(a) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(3), **Sch. 33 Pt. I(4)**; S.I. 2001/3300, **art. 2**
- F4** Word in Sch. 5 para. 15(2)(b) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(3), **Sch. 33 Pt. I(4)**; S.I. 2001/3300, **art. 2**
- F5** Sch. 5 para. 15(2)(d) and the word “or” immediately preceding it inserted (1.11.2001) by 2001 c. 9, s. 15, **Sch. 3 para. 19(3)**; S.I. 2001/3300, **art. 2**

**Marginal Citations**

- M17** 1996 c. 8.

*Assessments under paragraphs 14 and 15*

- 16 (1) An assessment under paragraph 14 or 15 above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (2) Where an amount has been assessed and notified to any person under paragraph 14 or 15 above, it shall be recoverable (subject to any provision having effect in accordance with paragraph 19 below) as if it were relevant tax due from him.
- (3) Sub-paragraph (2) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

*Interest on amounts assessed*

- 17 (1) Where an assessment is made under paragraph 14 or 15 above, the whole of the amount assessed shall carry interest at the rate applicable under section 197 of the Finance Act 1996 from the date on which the assessment is notified until payment.
- (2) Where any person is liable to interest under sub-paragraph (1) above the Commissioners may assess the amount due by way of interest and notify it to him.
- (3) Without prejudice to the power to make assessments under this paragraph for later periods, the interest to which an assessment under this paragraph may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment under this paragraph is made.
- (4) Interest under this paragraph shall be paid without any deduction of income tax.

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (5) A notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the amount of interest is calculated; and, if the interest continues to accrue after that date, a further assessment or assessments may be made under this paragraph in respect of amounts which so accrue.
- (6) If, within such period as may be notified by the Commissioners to the person liable for interest under sub-paragraph (1) above, the amount referred to in that sub-paragraph is paid, it shall be treated for the purposes of that sub-paragraph as paid on the date specified as mentioned in sub-paragraph (5) above.
- (7) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were relevant tax due from him.
- (8) Sub-paragraph (7) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

#### *Supplementary assessments*

- 18 If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 14, 15 or 17 above exceeds the amount which was so assessed, then—
- (a) under the same paragraph as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made, the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

#### *Review of decisions and appeals*

- 19 (1) Sections 14 to 16 of the <sup>M18</sup>Finance Act 1994 (review and appeals) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is section 137A of the <sup>M19</sup>Customs and Excise Management Act 1979 or [<sup>F6</sup>Part 1 of Schedule 3 to the Finance Act 2001 or the relevant interest provision is Part 2 of that Schedule],
- as if that decision were such a decision as is mentioned in section 14(1)(b) of that Act of 1994.
- (2) Sections 59 and 60 of that Act of 1994 (review and appeal in the case of insurance premium tax) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is paragraph 8 of Schedule 7 to that Act or the relevant interest provision is paragraph 22 of that Schedule,
- as if that decision were a decision to which section 59 of that Act applies.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Sections 54 to 56 of the <sup>M20</sup>Finance Act 1996 (review and appeal in the case of landfill tax) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is paragraph 14 of Schedule 5 to that Act or the relevant interest provision is paragraph 29 of that Schedule,
- as if that decision were a decision to which section 54 of that Act applies.

**Annotations:**

**Amendments (Textual)**

**F6** Words in *Sch. 5 para. 19(1)(c)* substituted (1.11.2001) by *2001 c. 9, s. 15, Sch. 3 para. 19(4); S.I. 2001/3300, art. 2*

**Marginal Citations**

**M18** 1994 c. 9.

**M19** 1979 c. 2.

**M20** 1996 c. 8.

*Interpretation of Part V*

- 20 (1) In this Part of this Schedule “the Commissioners” means the Commissioners of Customs and Excise.
- (2) In this Part of this Schedule “relevant tax”, in relation to any assessment, means—
- (a) a duty of excise if the assessment relates to—
    - (i) a repayment of an amount paid by way of such a duty,
    - (ii) an overpayment of interest under [<sup>F7</sup>Part 2 of Schedule 3 to the Finance Act 2001], or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is a duty of excise;
  - (b) insurance premium tax if the assessment relates to—
    - (i) a repayment of an amount paid by way of such tax,
    - (ii) an overpayment of interest under paragraph 22 of Schedule 7 to the Finance Act 1994, or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is insurance premium tax;

and
  - (c) landfill tax if the assessment relates to—
    - (i) a repayment of an amount paid by way of such tax,
    - (ii) an overpayment of interest under paragraph 29 of Schedule 5 to the <sup>M21</sup>Finance Act 1996, or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is landfill tax.

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (3) For the purposes of this Part of this Schedule notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts.

**Annotations:**

**Amendments (Textual)**

**F7** Words in [Sch. 5 para. 20\(2\)\(a\)\(ii\)](#) substituted (1.11.2001) by [2001 c. 9, s. 15, Sch. 3 para. 19\(5\)](#); [S.I. 2001/3300, art. 2](#)

**Marginal Citations**

**M21** [1996 c. 8.](#)

*Consequential amendment*

- 21 In section 197(2) of the Finance Act 1996 (enactments for which interest rates are set under section 197), after paragraph (d) there shall be inserted “and
- (e) paragraph 17 of Schedule 5 to the Finance Act 1997 (interest on amounts repayable in respect of overpayments by the Commissioners in connection with excise duties, insurance premium tax and landfill tax).”

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to :**

- Sch. 5 para. 6(2)(b)(c) omitted by 2009 c. 10 Sch. 51 para. 43(b)
- Sch. 5 para. 19(1) word substituted by S.I. 2009/56 Sch. 1 para. 244(2)(b)
- Sch. 5 para. 19(1) words substituted by S.I. 2009/56 Sch. 1 para. 244(2)(a)
- Sch. 5 para. 19(2) words substituted by S.I. 2009/56 Sch. 1 para. 244(3)
- Sch. 5 para. 20(3) words substituted by S.I. 2016/1034 Sch. 1 para. 18

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by S.I. 2011/1043 art. 3 4
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 6

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(3A)-(3C) inserted by 2007 c. 11 Sch. 25 para. 17(3)
- s. 10(3A) omitted by 2012 c. 14 Sch. 24 para. 56
- s. 10(3C)(a) words inserted by 2009 c. 10 s. 114(6)
- s. 10(3AA) inserted by 2009 c. 10 s. 114(5)
- s. 10(3AA) substituted by 2012 c. 14 Sch. 24 para. 48
- s. 11(10A) inserted by 2007 c. 11 Sch. 25 para. 18(3)
- s. 14(4) inserted by 2009 c. 10 s. 114(12)
- s. 51(A1) inserted by 2007 c. 15 Sch. 13 para. 126(2)
- s. 51(A1) omitted by 2008 c. 9 Sch. 43 para. 6
- s. 52(2)(aa) inserted by 2007 asp 3 Sch. 5 para. 24(a)
- Sch. 12 para. 2(1A) inserted by 2006 c. 25 Sch. 9 para. 7(2)
- Sch. 12 para. 16(1A) inserted by 2006 c. 25 Sch. 9 para. 7(3)
- Sch. 18 Pt. 6(3) Note 3(b) repealed by 2003 c. 1 Sch. 8 Pt. 1

**Commencement Orders yet to be applied to the Finance Act 1997**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/392 art. 2 commences (2002 c. 21)
- S.I. 2003/766 art. 2 Sch. commences (2002 c. 40)
- S.I. 2003/962 art. 2 Sch. 1 2 commences (2002 c. 21)
- S.I. 2003/1397 art. 2(1) Sch. commences (2002 c. 40)
- S.I. 2003/2093 art. 2 Sch. 1 2 commences (2002 c. 40)
- S.I. 2007/2532 art. 2 commences (2007 c. 11)
- S.I. 2009/403 art. 2 commences (2008 c. 9)
- S.I. 2009/511 art. 2 commences (2008 c. 9)
- S.I. 2009/3024 art. 3 commences (2008 c. 9)
- S.I. 2010/128 art. 2 commences (2006 c. 18)
- S.I. 2010/495 art. 4(d) commences (2006 c. 18)
- S.I. 2010/867 art. 2 commences (2009 c. 10)
- S.S.I. 2009/369 art. 3 Sch. commences (2007 asp 3)