

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part VII. (See end of Document for details)

SCHEDULES

SCHEDULE 6

CLIMATE CHANGE LEVY

Modifications etc. (not altering text)

- C1** Sch. 6 modified (coming into force in accordance with art. 1 of the amending S.I.) by [The Climate Change Levy \(Suspension of Recycling Exemption\) Order 2011 \(S.I. 2011/1023\)](#), arts. 1, 2, 3
- C1** Sch. 6 modified (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 para. 1\(1\)](#)

PART VII

RECOVERY AND INTEREST

Recovery of levy as debt due

- 77 Levy shall be recoverable as a debt due to the Crown.

Assessments of amounts of levy due

- 78 (1) Where it appears to the Commissioners—
- (a) that any period is an accounting period by reference to which a person is liable to account for levy,
 - (b) that any levy for which that person is liable to account by reference to that period has become due, and
 - (c) that there has been a default by that person that falls within sub-paragraph (2),

they may assess the amount of levy due from that person for that period to the best of their judgement and notify that amount to that person.

- [^{F1}(1A) Where it appears to the Commissioners—

- (a) that any levy for which a person is liable to account otherwise than by reference to an accounting period has become due, and
- (b) that there has been a default by that person that falls within sub-paragraph (2),

they may assess the amount of that levy to the best of their judgement and notify it to him.]

- (2) The defaults falling within this sub-paragraph are—

- (a) any failure to make a return required to be made by any provision made by or under this Schedule;
- (b) any failure to keep any documents necessary to verify returns required to be made under any such provision;

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- (c) any failure to afford the facilities necessary to verify returns required to be made under any such provision;
 - (d) the making, in purported compliance with any requirement of any such provision to make a return, of an incomplete or incorrect return;
 - (e) any failure to comply with a requirement imposed by or under Part V of this Schedule (registration).
- (3) Where it appears to the Commissioners that a default falling within sub-paragraph (2) is a default by a person on whom the requirement to make a return is imposed in his capacity as the representative of another person, sub-paragraph (1) shall apply as if the reference to the amount of levy due included a reference to any levy due from that other person.
- (4) In a case where—
- (a) the Commissioners have made an assessment for any accounting period as a result of any person's failure to make a return for that period,
 - (b) the levy assessed has been paid but no proper return has been made for that period,
 - (c) as a result of a failure (whether by that person or a representative of his) to make a return for a later accounting period, the Commissioners find it necessary to make another assessment under this paragraph in relation to the later period, and
 - (d) the Commissioners think it appropriate to do so in the light of the absence of a proper return for the earlier period,
- they may, in the assessment in relation to the later period, specify an amount of levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.
- (5) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable on the basis that it is an amount of levy due from him.
- (6) Sub-paragraph (5) does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

Textual Amendments

F1 Sch. 6 para. 78(1A) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 192\(5\)](#)

Supplementary assessments

- 79 (1) If, where an assessment has been notified to any person under paragraph 78 or this paragraph, it appears to the Commissioners that the amount which ought to have been assessed as due for any accounting period exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.
- (2) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable on the basis that it is an amount of levy due from him.
- (3) Sub-paragraph (2) does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

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Time limits for assessments

- 80 (1) An assessment under paragraph 78 or 79 of an amount of levy due for any accounting period—
- (a) shall not be made more than two years after the end of the accounting period unless it is made within the period mentioned in sub-paragraph (2); and
 - (b) subject to sub-paragraph (3), shall not in any event be made more than [^{F2}4 years] after the end of that accounting period.
- (2) The period referred to in sub-paragraph (1)(a) is the period of one year after evidence of facts sufficient in the Commissioners' opinion to justify the making of the assessment first came to their knowledge.
- [^{F3}(3) An assessment of an amount due from a person in a case involving a loss of levy—
- (a) brought about deliberately by the person (or by another person acting on that person's behalf), or
 - (b) attributable to a failure by the person to comply with an obligation under paragraph 53 or 55,
- may be made at any time not more than 20 years after the end of the accounting period to which it relates (subject to sub-paragraph (4)).
- (3A) In sub-paragraph (3)(a) the reference to a loss brought about deliberately by the person includes a loss brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]
- (4) Where, after a person's death, the Commissioners propose to assess an amount of levy as due by reason of some conduct of the deceased—
- (a) the assessment shall not be made more than [^{F4}4 years] after the death; ^{F5}...
 - ^{F5}(b)
- (5) Nothing in this paragraph shall prejudice the powers of the Commissioners under paragraph 78(4).

Textual Amendments

- F2** Words in Sch. 6 para. 80(1)(b) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 35\(2\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with [art. 18](#))
- F3** Sch. 6 para. 80(3)(3A) substituted for Sch. 6 para. 80(3) (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 35\(3\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with [art. 19](#))
- F4** Words in Sch. 6 para. 80(4)(a) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 35\(4\)\(a\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with [art. 20](#))
- F5** Sch. 6 para. 80(4)(b) and word omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 35\(4\)\(b\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with [art. 20](#))

Ordinary interest on overdue levy paid before assessment

- 81 (1) Where—
- (a) the circumstances are such that an assessment could have been made under paragraph 78 or 79 of an amount of levy due from any person, but
 - (b) before such an assessment was made and notified to that person that amount was paid (so that no such assessment was necessary),

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the whole of the amount paid shall carry interest for the period specified in sub-paragraph (2).

- (2) That period is the period which—
- (a) begins with the day after that on which the person is required in accordance with regulations under paragraph 41 to pay levy due from him for the accounting period to which the amount paid relates; and
 - (b) ends with the day before that on which the amount is paid.
- (3) Interest under this paragraph shall be payable at the rate applicable under section 197 of the ^{M1}Finance Act 1996.

Marginal Citations

M1 1966 c. 8.

Penalty interest on unpaid levy

- 82 (1) Where—
- (a) a person makes a return for the purposes of any regulations made under paragraph 41 (whether or not at the time required by the regulations), and
 - (b) the return shows that an amount of levy is due from him for the accounting period for which the return is made,
- that amount shall carry penalty interest for the period specified in sub-paragraph (2).
- (2) That period is the period which—
- (a) begins with the day after that on which the person is required in accordance with regulations under paragraph 41 to pay levy due from him for the accounting period in question; and
 - (b) ends with the day before that on which the amount shown in the return is paid.

Penalty interest on levy where no return made

- 83 (1) Where—
- (a) the Commissioners make an assessment under paragraph 78 or 79 of an amount of levy due from any person for any accounting period and notify it to him, and
 - (b) the assessment is made at a time after the time by which a return is required by regulations under paragraph 41 to be made by that person for that accounting period and before any such return has been made,
- that amount shall carry penalty interest for the period specified in sub-paragraph (2).
- (2) That period is the period which—
- (a) begins with the day after that on which the person is required in accordance with regulations under paragraph 41 to pay levy due from him for the accounting period in question; and
 - (b) ends with the day before that on which the assessed amount is paid.
- (3) Where the person, after the assessment is made, makes for the purposes of any regulations under paragraph 41 a return for the accounting period in question, the

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assessed amount shall not carry penalty interest under this paragraph to the extent that that amount is shown in the return as an amount of levy due from him for that accounting period (and, accordingly, carries penalty interest under paragraph 82).

Ordinary and penalty interest on under-declared levy

- 84 (1) Subject to sub-paragraph (4), where—
- (a) the Commissioners make an assessment under paragraph 78 or 79 of an amount of levy due from any person for any accounting period and notify it to him,
 - (b) the assessment is made after a return for the purposes of any regulations under paragraph 41 has been made by that person for that accounting period, and
 - (c) the assessment is made on the basis that the amount (“the additional amount”) is due from him in addition to any amount shown in the return, or in a previous assessment made in relation to the accounting period,
- the additional amount shall carry interest for the period specified in sub-paragraph (2).
- (2) That period is the period which—
- (a) begins with the day after that on which the person is required in accordance with regulations under paragraph 41 to pay levy due from him for the accounting period in question; and
 - (b) ends with the day before the day on which the additional amount is paid.
- (3) Interest under this paragraph—
- (a) in respect of so much of the period specified in sub-paragraph (2) as falls before the day on which the assessment is notified to the person in question, shall be payable at the rate applicable under section 197 of the ^{M2}Finance Act 1996 for the purposes of paragraph 81(3); and
 - (b) in respect of the remainder (if any) of that period, shall be penalty interest.
- (4) Where—
- (a) the Commissioners make an assessment under paragraph 78 or 79 of an amount of levy due from any person for any accounting period and notify it to him,
 - (b) they also specify a date for the purposes of this sub-paragraph, and
 - (c) the amount assessed is paid on or before that date,
- the only interest carried by that amount under this paragraph shall be interest, at the rate given by sub-paragraph (3)(a), for the period before the day on which the assessment is notified.

Marginal Citations

M2 1996 c. 8.

Penalty interest on unpaid ordinary interest

- 85 (1) Subject to sub-paragraph (2), where the Commissioners make an assessment under paragraph 88 of an amount of interest payable at the rate given by paragraph 81(3), that amount shall carry penalty interest for the period which—

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- (a) begins with the day on which the assessment is notified to the person on whom the assessment is made; and
 - (b) ends with the day before the day on which the assessed interest is paid.
- (2) Where—
- (a) the Commissioners make an assessment under paragraph 88 of an amount of interest due from any person,
 - (b) they also specify a date for the purposes of this sub-paragraph, and
 - (c) the amount of interest assessed is paid on or before that date,
- the amount paid before that date shall not carry penalty interest under this paragraph.

Penalty interest

- 86 (1) Penalty interest under any of paragraphs 82 to 85 shall be compound interest calculated—
- (a) at the penalty rate, and
 - (b) with monthly rests.
- (2) For this purpose the penalty rate is the rate found by—
- (a) taking the rate applicable under section 197 of the ^{M3}Finance Act 1996 for the purposes of paragraph 81(3); and
 - (b) adding 10 percentage points to that rate.
- (3) Where a person is liable under any of paragraphs 82 to 85 to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (4) Subject to sub-paragraph (5), where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (3).
- (5) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (4), no account shall be taken of any of the following matters, that is to say—
- (a) the insufficiency of the funds available to any person for paying any levy due or for paying the amount of the interest;
 - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of levy;
 - (c) the fact that the person liable to pay the interest or a person acting on his behalf has acted in good faith.
- (6) In the case of interest reduced by the Commissioners under sub-paragraph (3) an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Marginal Citations

M3 1996 c. 8.

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Supplemental provisions about interest

- 87 (1) Interest under any of paragraphs 81 to 85 shall be paid without any deduction of income tax.
- (2) Sub-paragraph (3) applies where—
- (a) an amount carries interest under any of paragraphs 81 to 85 (or would do so apart from that sub-paragraph); and
 - (b) all or part of the amount turns out not to be due.
- (3) In such a case—
- (a) the amount or part that turns out not to be due shall not carry interest under the applicable paragraph and shall be treated as never having done so; and
 - (b) all such adjustments as are reasonable shall be made, including (subject to paragraphs 64 to 76) adjustments by way of repayment.

Assessments to interest

- 88 (1) Where a person is liable for interest under any of paragraphs 81 to 85, the Commissioners may assess the amount due by way of interest and notify it to him accordingly.
- (2) If, where an assessment has been notified to any person under sub-paragraph (1) or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and shall notify that person accordingly.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were levy due from him.
- (4) Sub-paragraph (3)—
- (a) shall not apply so as to require any interest to be payable on interest except—
 - (i) in accordance with paragraph 85, or
 - (ii) in so far as it falls to be compounded in accordance with paragraph 86;
 - and
 - (b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (5) Paragraph 80 shall apply in relation to assessments under this paragraph as if any assessment to interest were an assessment under paragraph 78 to levy due for the period which is the relevant accounting period in relation to that interest.
- (6) Subject to sub-paragraph (7), where a person—
- (a) is assessed under this paragraph to an amount due by way of any interest, and
 - (b) is also assessed under paragraph 78 or 79 for the accounting period which is the relevant accounting period in relation to that interest,
- the assessments may be combined and notified to him as one assessment.
- (7) A notice of a combined assessment under sub-paragraph (6) must separately identify the interest being assessed.
- (8) The relevant accounting period for the purposes of this paragraph is—

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- (a) in the case of interest on levy due for any accounting period, that accounting period; and
 - (b) in the case of interest on interest (whether under paragraph 85 or by virtue of any compounding under paragraph 86), the period which is the relevant accounting period for the interest on which the interest is payable.
- (9) In a case where—
- (a) the amount of any interest falls to be calculated by reference to levy which was not paid at the time when it should have been, and
 - (b) that levy cannot be readily attributed to any one or more accounting periods, that levy shall be treated for the purposes of interest on any of that levy as levy due for such period or periods as the Commissioners may determine to the best of their judgement and notify to the person liable.

Further assessments to penalty interest

- 89 (1) Where an assessment is made under paragraph 88 to an amount of penalty interest under any of paragraphs 82 to 85—
- (a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and
 - (b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under paragraph 88 in respect of the amounts so accruing.
- (2) Where—
- (a) an assessment to penalty interest is made specifying a date for the purposes of sub-paragraph (1)(a), and
 - (b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,
- that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

Controlled goods agreements

F⁶89A

Textual Amendments

F6 Sch. 6 para. 89A (which was inserted (6.4.2014) by 2007 c. 15, s. 148, **Sch. 13 para. 136** (with s. 89); S.I. 2014/768, **art. 2(1)(b)**) omitted (6.4.2014) by Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 7**; S.I. 2014/906, **art. 2**

Walking possession agreements

- 90 (1) This paragraph applies where—
- (a) in accordance with regulations under section 51 of the ^{M4}Finance Act 1997 (enforcement by distress), a distress is authorised to be levied on the goods and chattels of a person (“the person in default”) who has refused or

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- neglected to pay an amount of levy due from him or an amount recoverable from him as if it were levy; and
- (b) the person levying the distress and the person in default have entered into a walking possession agreement.
- (2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
- (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to sub-paragraph (4), if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to one half of the levy or other amount referred to in sub-paragraph (1)(a).
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.

[^{F7}(5) This paragraph extends only to Northern Ireland.]

Textual Amendments

F7 Sch. 6 para. 90(5) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 148, Sch. 13 para. 137](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

Marginal Citations

M4 1997 c. 16.

Interpretation etc. of Part VII

- 91 (1) In this Part of this Schedule “penalty interest” shall be construed in accordance with paragraph 86.
- (2) Any notification of an assessment under any provision of this Part of this Schedule to a person’s representative shall be treated for the purposes of this Schedule as notification to the person in relation to whom the representative acts.
- (3) In this Part of this Schedule “representative”, in relation to any person, means—
- (a) any of that person’s personal representatives;
- (b) that person’s trustee in bankruptcy or liquidator;
- (c) any person holding office as a receiver in relation to that person or any of his property;
- (d) that person’s tax representative or any other person for the time being acting in a representative capacity in relation to that person.
- (4) In this paragraph “trustee in bankruptcy” includes, as respects Scotland—
- [^{F8}(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;] and

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(b) a trustee acting under a trust deed (within the meaning of that Act).

[^{F9}(5) In relation to cases where, by virtue of regulations under paragraph 41(1)(a)(ii) [^{F10}or by virtue of paragraph 45B(8)], a person is liable to account for levy otherwise than by reference to accounting periods, this Part of this Schedule shall have effect as if—

- (a) references to levy due for “an” or “any” accounting period were references simply to levy due;
- (b) references to levy due for a specified accounting period were references to the levy in question;
- (c) references to an assessment for a specified accounting period were references to an assessment in respect of the levy in question;
- (d) any time limit framed by reference to the end of the accounting period for which levy is due were framed by reference to the date on which payment of the levy is due;
- (e) references to the making of a return for an accounting period were references to the payment of the levy in question;
- (f) references to the amount shown in such a return were references to the amount of levy paid;
- (g) paragraph 88(8) and (9) were omitted.]

Textual Amendments

- F8** Sch. 6 para. 91(4)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 23\(c\)](#)
- F9** Sch. 6 para. 91(5) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 192\(6\)](#)
- F10** Words in Sch. 6 para. 91(5) inserted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 59 para. 8\(2\)](#)

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