

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part X. (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 X

NON-RESIDENTS, GROUPS AND OTHER SPECIAL CASES

Non-resident taxpayers: appointment of tax representatives

- 114 (1) The Commissioners may by regulations make provision for securing that every non-resident taxpayer has a person resident in the United Kingdom to act as his tax representative for the purposes of the levy.
- (2) Regulations under this paragraph may, in particular, contain any or all of the following—
- (a) provision requiring notification to be given to the Commissioners where a person becomes a non-resident taxpayer;
 - (b) provision requiring the appointment of tax representatives by non-resident taxpayers;
 - (c) provision for the appointment of a person as a tax representative to take effect only where the person appointed is approved by the Commissioners;
 - (d) provision authorising the Commissioners to give a direction requiring the replacement of a tax representative;
 - (e) provision authorising the Commissioners to give a direction requiring a person specified in the direction to be treated as the appointed tax representative of a non-resident taxpayer so specified;
 - (f) provision about the circumstances in which a person ceases to be a tax representative and about the withdrawal by the Commissioners of their approval of a tax representative;
 - (g) provision enabling a tax representative to act on behalf of the person for whom he is the tax representative through an agent of the representative;
 - (h) provision for the purposes of any provision made by virtue of paragraphs (a) to (g) regulating the procedure to be followed in any case and imposing requirements as to the information and other particulars to be provided to the Commissioners;

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- (i) provision as to the time at which things done under or for the purposes of the regulations are to take effect.
- (3) Subject to sub-paragraph (4), a person who—
 - (a) becomes subject, in accordance with any regulations under this paragraph, to an obligation to request the Commissioners' approval for any person's appointment as his tax representative, but
 - (b) fails (with or without making the appointment) to make the request as required by the regulations,
 shall be liable to a penalty of £10,000.
- (4) A failure such as is mentioned in sub-paragraph (3) shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.

Effect of appointment of tax representatives

- 115 (1) The tax representative of a non-resident taxpayer shall be entitled to act on the non-resident taxpayer's behalf for the purposes of any provision made by or under this Schedule.
- (2) The tax representative of a non-resident taxpayer shall be under a duty, except to such extent as the Commissioners by regulations otherwise provide, to secure the non-resident taxpayer's compliance with, and discharge of, the obligations and liabilities to which the non-resident taxpayer is subject by virtue of any provision made by or under this Schedule (including obligations and liabilities arising or incurred before he became the non-resident taxpayer's tax representative).
- (3) A person who is or has been the tax representative of a non-resident taxpayer shall be personally liable—
- (a) in respect of any failure while he is or was the non-resident taxpayer's tax representative to secure compliance with, or the discharge of, any obligation or liability to which sub-paragraph (2) applies, and
 - (b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf,
- as if the obligations and liabilities to which sub-paragraph (2) applies were imposed jointly and severally on the tax representative and the non-resident taxpayer.
- (4) A tax representative shall not be liable by virtue of this paragraph to be registered for the purposes of the levy; but the Commissioners may by regulations—
- (a) require the names of tax representatives to be registered against the names of the non-resident taxpayers of whom they are the representatives;
 - (b) make provision for the deletion of the names so registered of persons who cease to be tax representatives.
- (5) A tax representative shall not by virtue of this paragraph be guilty of any offence except in so far as—
- (a) he has consented to, or connived in, the commission of the offence by the non-resident taxpayer;
 - (b) the commission of the offence by the non-resident taxpayer is attributable to any neglect on the part of the tax representative; or

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- (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of this paragraph, is imposed both on the tax representative and on the non-resident taxpayer.

Groups of companies etc.

- 116 (1) The Commissioners may make provision by regulations for two or more bodies corporate to be treated as members of a group for the purposes of the Schedule.
- (2) Regulations under sub-paragraph (1) may, in particular, make provision for or about—
- (a) eligibility for group treatment;
 - (b) representative members of groups;
 - (c) applications for, or the variation or ending of, group treatment;
 - (d) the decisions to be made on applications;
 - (e) the variation or ending of group treatment by notice given by the Commissioners otherwise than on an application;
 - (f) treating a member of a group as charged with levy that would otherwise be levy with which another member of the group would be charged;
 - (g) the members of a group liable for levy, or amounts recoverable as levy, due from a member of a group.
- (3) The provision mentioned in sub-paragraph (2)(c) includes provision—
- (a) about the time within which applications are to be made,
 - (b) for authorising the Commissioners to extend such time, and
 - (c) for applications that seek group treatment, or its variation or ending, with effect from a time before they are made.
- (4) The provision mentioned in sub-paragraph (2)(e) includes provision for a notice to have effect from a time before it is given.
- (5) Regulations under sub-paragraph (1) may make provision for imposing requirements on a body corporate to notify the Commissioners of prescribed matters relating to group treatment.
- (6) A body corporate which fails to comply with any such requirement imposed by such regulations shall be liable to a penalty of £250.

Partnerships and other unincorporated bodies

- 117 (1) The Commissioners may by regulations make provision for determining by what persons anything required to be done under this Schedule is to be done where, apart from those regulations, that requirement would fall on—
- (a) persons carrying on business in partnership; or
 - (b) persons carrying on business together as an unincorporated body;
- but any regulations under this sub-paragraph must be construed subject to the following provisions of this paragraph.
- (2) In determining for the purposes of this Schedule who at any time is the person accountable for any levy in a case where, apart from this sub-paragraph, the persons accountable are persons carrying on any business—
- (a) in partnership, or

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- (b) as an unincorporated body,
the firm or body shall be treated, for the purposes of that determination (and notwithstanding any changes from time to time in the members of the firm or body), as the same person and as separate from its members.
- (3) Without prejudice to section 36 of the ^{M1}Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), where—
- (a) persons have been carrying on in partnership any business in the course or furtherance of which there has been done any thing that resulted in the firm becoming liable to account for any levy, and
- (b) a person ceases to be a member of the firm,
that person shall be regarded for the purposes of this Schedule (including sub-paragraph (7) below) as continuing to be a partner until the date on which the change in the partnership is notified to the Commissioners.
- (4) Where a person ceases to be a member of a firm during an accounting period (or is treated as so ceasing by virtue of sub-paragraph (3)) any notice, whether of assessment or otherwise, which—
- (a) is served on the firm under or for the purposes of any provision made by or under this Schedule, and
- (b) relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the firm,
shall be treated as served also on him.
- (5) Without prejudice to section 16 of the ^{M2}Partnership Act 1890 (notice to acting partner to be notice to the firm), any notice, whether of assessment or otherwise, which—
- (a) is addressed to a firm by the name in which it is registered, and
- (b) is served in accordance with this Schedule,
shall be treated for the purposes of this Schedule as served on the firm and, accordingly, where sub-paragraph (4) applies, as served also on the former partner.
- (6) Subject to sub-paragraph (7), nothing in this paragraph shall affect the extent to which, under section 9 of the Partnership Act 1890 (liability of partners for debts of the firm), a partner is liable for levy owed by the firm.
- (7) Where a person is a partner in a firm during part only of an accounting period, his personal liability for levy incurred by the firm in respect of taxable supplies made in that period shall include, but shall not exceed, such proportion of the firm's liability as may be just and reasonable in the circumstances.

Marginal Citations

M1 1890 c. 39.

M2 1890 c. 39.

Death and incapacity

- 118 (1) The Commissioners may, in accordance with sub-paragraph (2), by regulations make provision for the purposes of the levy in relation to cases where a person carries on a business of an individual who has died or become incapacitated.

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- (2) The provisions that may be contained in regulations under this paragraph are—
- (a) provision requiring the person who is carrying on the business to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;
 - (b) provision allowing that person to be treated for a limited time as if he and the person who has died or become incapacitated were the same person; and
 - (c) such other provision as the Commissioners think fit for securing continuity in the application of this Schedule where a person is so treated.

Transfer of a business as a going concern

- 119 (1) The Commissioners may by regulations make provision for securing continuity in the application of this Schedule in cases where any business carried on by a person is transferred to another person as a going concern.
- (2) Regulations under this paragraph may, in particular, include any or all of the following—
- (a) provision requiring the transferor to inform the Commissioners of the transfer;
 - (b) provision for liabilities and duties under this Schedule of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;
 - (c) provision for any right of either of them to a tax credit or repayment of levy to be satisfied by allowing the credit or making the repayment to the other;
 - (d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under paragraph 125, are required to be preserved for any period after the transfer.
- (3) Regulations under this paragraph may provide that no such provision as is mentioned in paragraph (b) or (c) of sub-paragraph (2) shall have effect in relation to any transferor and transferee unless an application for the purpose has been made by them under the regulations.

Insolvency etc.

- 120 (1) The Commissioners may by regulations make provision in accordance with the following provisions of this paragraph for the application of this Schedule in cases in which an insolvency procedure is applied to a person or to a deceased individual's estate.

In this paragraph “the relevant person” means the person to whom, or the deceased individual to whose estate, the insolvency procedure is applied.

- (2) The provision that may be contained in regulations under this paragraph may include any or all of the following—
- (a) provision requiring any such person as may be prescribed to give notification to the Commissioners, in the prescribed manner, of the prescribed particulars of any relevant matter;
 - (b) provision requiring a person to be treated, to the prescribed extent, as if he were the same person as the relevant person for the purposes of this Schedule or such of its provisions as may be prescribed; and

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- (c) provision for securing continuity in the application of any of the provisions of this Schedule where, by virtue of any regulations under this paragraph, any person is treated as if he were the same person as the relevant person.
- (3) In sub-paragraph (2) “relevant matter”, in relation to a case in which an insolvency procedure is applied to any person or to any deceased individual’s estate, means—
- (a) the application of that procedure to that person or estate;
 - (b) the appointment of any person for the purposes of the application of that procedure;
 - (c) any other matter relating to—
 - (i) the application of that procedure to the person to whom, or the estate to which, it is applied;
 - (ii) the holding of an appointment made for the purposes of that procedure; or
 - (iii) the exercise or discharge of any powers or duties conferred or imposed on any person by virtue of such an appointment.
- (4) Regulations made by virtue of sub-paragraph (2)(b) may include provision for a person to cease to be treated as if he were the same person as the relevant person on the occurrence of such an event as may be prescribed.
- (5) Regulations under this paragraph prescribing the manner in which any notification is to be given to the Commissioners may require it to be given in such manner and to contain such particulars as may be specified in a general notice published by the Commissioners in accordance with the regulations.
- (6) Regulations under this paragraph may provide that the extent to which, and the purposes for which, a person is to be treated under the regulations as if he were the same person as the relevant person may be determined by reference to a notice given in accordance with the regulations to the person so treated.
- (7) For the purposes of this paragraph, an insolvency procedure is applied to a person if—
- (a) a bankruptcy order, winding-up order or administration order is made [^{F1}or an administrator is appointed] in relation to that person or a partnership of which he is a member;
 - (b) an award of sequestration is made on that person’s estate or on the estate of a partnership of which he is a member;
 - (c) that person is put into administrative receivership;
 - (d) that person passes a resolution for voluntary winding up;
 - (e) any voluntary arrangement approved in accordance with—
 - (i) Part I or VIII of the ^{M3}Insolvency Act 1986, or
 - (ii) Part II or Chapter II of Part VIII of the ^{M4}Insolvency (Northern Ireland) Order 1989,
 comes into force in relation to that person or a partnership of which that person is a member;
 - (f) a deed of arrangement registered in accordance with—
 - ^{F2}(i)
 - (ii) Chapter I of Part VIII of that Order,
 takes effect in relation to that person;

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- (g) a person is appointed as the receiver or manager of some or all of that person's property, or of income arising from some or all of his property;
 - (h) a person is appointed as the interim receiver of some or all of that person's property under section 286 of the Insolvency Act 1986 or Article 259 of the Insolvency (Northern Ireland) Order 1989;
 - (i) a person is appointed as the provisional liquidator in relation to that person under section 135 of that Act or Article 115 of that Order;
 - (j) an interim order is made under Part VIII of that Act, or Chapter II of Part VIII of that Order, in relation to that person; or
 - (k) that person's estate, or the estate of a partnership of which that person is a member, becomes vested in any other person as that person's, or the partnership's, trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act [^{F3}2016]).
- (8) For the purposes of this paragraph, an insolvency procedure is applied to a deceased individual's estate if—
- (a) a bankruptcy order, or an order by some other name but corresponding to a bankruptcy order, is made after the individual's death in relation to his estate under provisions of—
 - (i) the Insolvency Act 1986, or
 - (ii) the Insolvency (Northern Ireland) Order 1989,as applied to the administration of the insolvent estates of deceased individuals; or
 - (b) an award of sequestration is made on the individual's estate after the individual's death.
- (9) In sub-paragraph (7)—
- (a) “administration order” means an administration order under [^{F4}Schedule B1 to]^{M5}the Insolvency Act 1986 or Article 21 of the Insolvency (Northern Ireland) Order 1989;
 - (b) references to a member of a partnership include references to any person who is liable as a partner under section 14 of the ^{M6}Partnership Act 1890 (persons liable by “holding out”).

Textual Amendments

- F1** Words in Sch. 6 para. 120(7)(a) inserted (15.9.2003) by [Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 33\(a\)](#) (with art. 6)
- F2** Sch. 6 para. 120(7)(f)(i) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 6 para. 2\(14\)\(b\)](#) (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F3** Word in Sch. 6 para. 120(7)(k) 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\(e\)](#)
- F4** Words in Sch. 6 para. 120(9) substituted (15.9.2003) by [Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 33\(b\)](#) (with art. 6)

Marginal Citations

- M3** 1986 c. 45.
- M4** S.I. 1989/2405 (N.I. 19).
- M5** S.I. 1989/2405 (N.I. 19.).
- M6** 1890 c. 39.

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