



# Finance Act 2001

## 2001 CHAPTER 9

### PART 2

#### AGGREGATES LEVY

##### *General provisions*

#### **44 Destination of receipts**

All money and securities for money collected or received for or on account of aggregates levy shall—

- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979 (c. 2); and
- (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

#### **45 Regulations and orders**

- (1) The powers of the Commissioners under this Part to make regulations shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (2) Where regulations made under this Part impose a relevant requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable, subject to subsection (3) below, to a penalty of £250.
- (3) Where by reason of any conduct—
  - (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act,that person shall not by reason of that conduct be liable also to a penalty under any regulations under this Part.

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- (4) In subsection (2) above “relevant requirement” means any requirement other than one the penalty for a contravention of which is specified in section 25(3) or 33(3) above or in paragraph 2 of Schedule 7 to this Act.
- (5) Subject to subsection (6) below, a power under this Part to make any provision by order or regulations—
- (a) may be exercised so as to apply the provision only in such cases as may be described in the order or regulations;
  - (b) may be exercised so as to make different provision for different cases or descriptions of case; and
  - (c) shall include power by the order or regulations to make such supplementary, incidental, consequential or transitional provision as the Treasury or, as the case may be, the Commissioners may think fit.
- (6) Subsection (5) above does not apply to an order under section 16(6) or 24(10) above.

#### **46 Civil penalties**

- (1) Where a person is liable to a civil penalty imposed by or under this Part—
- (a) the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; but
  - (b) on an appeal relating to any penalty reduced by the Commissioners, an appeal tribunal may cancel the whole or any part of the Commissioners’ reduction.
- (2) In determining whether a civil penalty should be, or should have been, reduced under subsection (1) above, 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 aggregates levy due or for paying the amount of the penalty;
  - (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 aggregates levy;
  - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.
- (3) For the purposes of any provision made by or under this Part under which liability to a civil penalty does not arise in respect of conduct for which there is shown to be a reasonable excuse—
- (a) an insufficiency of funds available for paying any amount is not a reasonable excuse; and
  - (b) where reliance has been placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.
- (4) Schedule 10 to this Act (which makes provision about the assessment of civil penalties imposed and about interest on such penalties) shall have effect.
- (5) If it appears to the Treasury that there has been a change in the value of money since the time when the amount of a civil penalty provided for by this Part was fixed, they may by order made by statutory instrument substitute, for the amount for the time being specified as the amount of that penalty, such other sum as appears to them to be justified by the change.

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- (6) In subsection (5) above the reference to the time when the amount of a civil penalty was fixed is a reference—
- (a) in the case of a penalty which has not previously been modified under that subsection, to the time of the passing of this Act; and
  - (b) in any other case, to the time of the making of the order under that subsection that made the most recent modification of the amount of that penalty.
- (7) An order under subsection (5) above—
- (a) shall not be made unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons; and
  - (b) shall not apply to the penalty for any conduct before the coming into force of the order.
- (8) In this section “civil penalty” means any penalty liability to which arises otherwise than in consequence of a person’s conviction for a criminal offence.

#### **47 Service of notices etc**

- (1) Any notice, notification or requirement that is to be or may be served on, given to or imposed on any person for the purposes of any provision made by or under this Part may be served, given or imposed by sending it to that person or his tax representative by post in a letter addressed to that person or representative at the latest or usual residence or place of business of that person or representative.
- (2) Any direction required or authorised by or under this Part to be given by the Commissioners may be given by sending it by post in a letter addressed to each person affected by it at his latest or usual residence or place of business.
- (3) Any direction, notice or notification required or authorised by or under this Part to be given by the Commissioners may be withdrawn or varied by them by a direction, notice or notification given in the same manner as the one withdrawn or varied.

#### **48 Interpretation of Part**

- (1) In this Part—
- “accounting period” means a period which, in pursuance of any regulations under section 25(1) above, is an accounting period for the purposes of aggregates levy;
  - “aggregate” shall be construed in accordance with sections 17(1) and 18 above;
  - “agreement” includes any arrangement or understanding (whether or not legally enforceable), and cognate expressions shall be construed accordingly;
  - “agricultural” means agricultural within the meaning of the Agriculture Act 1967 (c. 22) or the Agriculture Act (Northern Ireland) 1949 (c. 2 (N.I.));
  - “appeal tribunal” means a VAT and duties tribunal;
  - “the commencement date” has the meaning given by section 16(6) above;
  - “commercial exploitation” shall be construed in accordance with section 19 above;
  - “the Commissioners” means the Commissioners of Customs and Excise;
  - “conduct” includes acts and omissions;

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“construction purposes” shall be construed in accordance with subsection (2) below;

“exempt process” shall be construed in accordance with section 18(2) above;

“forestry” includes the cultivation, maintenance and care of trees or woodland of any description;

“gravel” includes gravel comprising or containing pebbles or stones or both;

“limestone” includes chalk and dolomite;

“member”, in relation to a group, shall be construed in accordance with section 35(6) above;

“mixed” includes blended, and cognate expressions shall be construed accordingly;

“non-resident taxpayer” means a person who—

(a) is or is required to be registered for the purposes of aggregates levy, or would be so required but for an exemption by virtue of regulations under section 24(4) above; and

(b) is not resident in the United Kingdom;

“operate” and “operator”, in relation to any site, shall be construed in accordance with section 21 above;

“originating site” shall be construed in accordance with section 20 above;

“prescribed” means prescribed by regulations made by the Commissioners under this Part;

“registered” means registered in the register maintained under section 24 above;

“representative member”, in relation to a group, shall be construed in accordance with section 35(6) above;

“rock” does not include any rock contained in a quantity of aggregate consisting wholly or mainly of gravel or sand;

“structure” includes roads and paths, the way on which any railway track is or is to be laid and embankments;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30);

“tax credit” means a tax credit for which provision is made by tax credit regulations;

“tax credit regulations” means regulations under section 30 above;

“tax representative”, in relation to any person, means the person who, in accordance with any regulations under section 33 above, is for the time being that person’s tax representative for the purposes of aggregates levy;

“taxable aggregate” shall be construed in accordance with section 17(2) to (4) above;

“United Kingdom waters” means—

(a) the territorial sea adjacent to the United Kingdom; or

(b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29).

(2) References in this Part to the use of anything for construction purposes are references to either of the following, except in so far as it consists in the application to it of an exempt process, that is to say—

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- (a) using it as material or support in the construction or improvement of any structure;
  - (b) mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.
- (3) References in this Part to winning any aggregate are references to winning it—
- (a) by quarrying, dredging, mining or collecting it from any land or area of the seabed; or
  - (b) by separating it in any other manner from any land or area of the seabed in which it is comprised.
- (4) References in this Part, in relation to any accounting period, to aggregates levy due from any person for that period are references (subject to any regulations made by virtue of section 25(2)(a) above) to the aggregates levy for which that person is required, in accordance with regulations under section 25 above, to account by reference to that period.
- (5) References in this Part to a repayment of aggregates levy or of an amount of aggregates levy are references to any repayment of an amount to any person by virtue of—
- (a) any tax credit regulations;
  - (b) section 31 above;
  - (c) paragraph 11(3) of Schedule 5 to this Act; or
  - (d) paragraph 6(3) of Schedule 10 to this Act.
- (6) For the purposes of this Part a person is resident in the United Kingdom at any time if, at that time—
- (a) that person has an established place of business in the United Kingdom;
  - (b) that person has a usual place of residence in the United Kingdom; or
  - (c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a) above) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

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