



Finance Act 2020

2020 CHAPTER 14

PART 4

MISCELLANEOUS AND FINAL

Insolvency

98 HMRC debts: priority on insolvency

- (1) In section 386 of the Insolvency Act 1986 (preferential debts)—
 - (a) in subsection (1) after “other deposits” insert “; certain HMRC debts”;
 - (b) in subsection (1B) for “or 15BB” substitute “, 15BB or 15D”.
- (2) In Schedule 6 to that Act (preferential debts) after paragraph 15C insert—

“Category 9: Certain HMRC debts

- 15D (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
- (a) value added tax, or
 - (b) a relevant deduction.
- (2) In sub-paragraph (1), the reference to “any amount” is subject to any regulations under section 99(1) of the Finance Act 2020.
- (3) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
- (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
 - (b) the payment to the Commissioners is credited against any liabilities of the other person, and
 - (c) the deduction is of a kind specified in regulations under section 99(3) of the Finance Act 2020.

Status: This is the original version (as it was originally enacted).

- (4) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.”
- (3) In section 129(2) of the Bankruptcy (Scotland) Act 2016 ([asp 21](#)) (priority in distribution: meaning of certain expressions) in the definition of “secondary preferred debt” for “paragraph 7 or 8” substitute “any of paragraphs 7 to 8A”.
- (4) In Part 1 of Schedule 3 to that Act (list of preferred debts) after paragraph 8 insert—
- “Certain HMRC debts*
- 8A (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
- (a) value added tax, or
 - (b) a relevant deduction.
- (2) In sub-paragraph (1), the reference to “any amount” is subject to any regulations under section 99(1) of the Finance Act 2020.
- (3) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
- (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
 - (b) the payment to the Commissioners is credited against any liabilities of the other person, and
 - (c) the deduction is of a kind specified in regulations under section 99(3) of the Finance Act 2020.
- (4) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.”
- (5) In Article 346 of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)) (preferential debts)—
- (a) in paragraph (1) after “other deposits” insert “; certain HMRC debts”;
 - (b) in paragraph (1B) for “or 20” substitute “, 20 or 22”.
- (6) In Schedule 4 to that Order (preferential debts) after paragraph 21 insert—

Category 9: Certain HMRC debts

- “22 (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
- (a) value added tax, or
 - (b) a relevant deduction.
- (2) In sub-paragraph (1), the reference to “any amount” is subject to any regulations under section 99(1) of the Finance Act 2020.
- (3) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
- (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,

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- (b) the payment to the Commissioners is credited against any liabilities of the other person, and
- (c) the deduction is of a kind specified in regulations under section 99(3) of the Finance Act 2020.

(4) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.”

(7) The amendments made by this section do not apply in relation to any case where the relevant date is before 1 December 2020.

99 HMRC debts: regulations

(1) The Treasury may by regulations provide that only the following amounts are secondary preferential debts (or, in relation to Scotland, secondary preferred debts) for the purpose of a relevant provision—

- (a) in the case of amounts owed in respect of value added tax, amounts referable to such period as is specified in the regulations;
- (b) in the case of amounts owed in respect of a relevant deduction, amounts owed in respect of a deduction from a payment made during such period as is specified in the regulations.

(2) In subsection (1) “relevant provision” means—

- (a) paragraph 15D(1) of Schedule 6 to the Insolvency Act 1986 (preferential debts: certain HMRC debts);
- (b) paragraph 8A(1) of Schedule 3 to the Bankruptcy (Scotland) Act 2016 ([asp 21](#)) (list of preferred debts: certain HMRC debts);
- (c) paragraph 22(1) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)) (preferential debts: certain HMRC debts).

(3) The Treasury may by regulations specify kinds of deductions for the purposes of—

- (a) paragraph 15D(3)(c) of Schedule 6 to the Insolvency Act 1986;
- (b) paragraph 8A(3)(c) of Schedule 3 to the Bankruptcy (Scotland) Act 2016 ([asp 21](#));
- (c) paragraph 22(3)(c) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)).

(4) Regulations under this section may contain transitional or supplementary provision.

(5) Regulations under this section—

- (a) are to be made by statutory instrument;
- (b) are subject to annulment in pursuance of a resolution of the House of Commons.