
STATUTORY INSTRUMENTS

2009 No. 571

**The Finance Act 2008, Schedule 40
(Appointed Day, Transitional Provisions and
Consequential Amendments) Order 2009**

Citation and interpretation

1.—(1) This Order may be cited as the Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 and comes into force on 1st April 2009.

(2) In this Order a reference to a paragraph (without more) is a reference to that paragraph of Schedule 40 to the Finance Act 2008.

(3) In this Order—

“filing date”, in relation to a relevant document, means—

- (i) where the document is required to be given to HMRC, the date by which it is required to be given, and
- (ii) where the document is not required to be given to HMRC, the date on which it is given;

“HMRC” means Her Majesty’s Revenue and Customs⁽¹⁾;

“relevant documents” means documents given to HMRC of a kind inserted in the Table in paragraph 1 of Schedule 24 by paragraph 2(4) or (5);

“relevant tax” means any tax inserted in the Table in paragraph 1 of Schedule 24 by paragraph 2(4) or (5);

“Schedule 24” means Schedule 24 to the Finance Act 2007⁽²⁾; and

“tax period” has the meaning given in paragraph 28(g) of Schedule 24.

Appointed day

2. The day appointed for the coming into force of Schedule 40 to the Finance Act 2008 is 1st April 2009.

3. In their application in relation to penalties payable under paragraph 1 of Schedule 24 (error in taxpayer’s document), the entries inserted by paragraph 2(4) and (5) shall have effect in relation to—

(a) relevant documents—

- (i) which relate to tax periods commencing on or after 1st April 2009, and
- (ii) for which the filing date is on or after 1st April 2010;

(b) relevant documents relating to all claims for repayments of relevant tax made on or after 1st April 2010 which are not related to a tax period;

(1) Section 4(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) provides that the Commissioners and the officers of Revenue and Customs may together be referred to as Her Majesty’s Revenue and Customs.

(2) 2007 c. 11. Schedule 24 was amended by section 122 of and Schedule 40 to the Finance Act 2008 (c. 9).

- (c) relevant documents produced under regulations under section 256 of the Inheritance Tax Act 1984⁽³⁾ (“IHTA 1984”) (regulations about accounts, etc), where the date of death is on or after 1st April 2009; and
 - (d) in any other case, relevant documents given where a person’s liability to pay relevant tax arises on or after 1st April 2010.
4. In their application in relation to penalties payable under paragraph 1A of Schedule 24⁽⁴⁾ (error in taxpayer’s document attributable to another person), the entries inserted by paragraph 2⁽⁴⁾ and (5) shall have effect in relation to—
- (a) relevant documents—
 - (i) which relate to tax periods commencing on or after 1st April 2009, and
 - (ii) for which the filing date is on or after 1st April 2010;
 - (b) relevant documents relating to all claims for repayments of relevant tax made on or after 1st April 2010 which are not related to a tax period;
 - (c) relevant documents produced under regulations under section 256 of IHTA 1984 (regulations about accounts, etc) where the date of death is on or after 1st April 2009; and
 - (d) in any other case, relevant documents given where a person’s liability to pay relevant tax arises on or after 1st April 2010.
5. In their application in relation to assessments falling within paragraph 2 of Schedule 24 (under-assessment by HMRC), the entries inserted by paragraph 2⁽⁴⁾ and (5) shall have effect in relation to tax periods commencing on or after 1st April 2009, where the filing date for the relevant document is on or after 1st April 2010.

Transitional provisions

- 6.—(1) Paragraph 21 (consequential repeals) repeals the provisions listed in paragraph (2) only in so far as those provisions relate to conduct involving dishonesty which relates to—
- (a) an inaccuracy in a document, or
 - (b) a failure to notify HMRC of an under-assessment by HMRC.
- (2) The provisions referred to in paragraph (1) are—
- (a) in the Finance Act 1994⁽⁵⁾—
 - (i) section 8 (penalty for evasion of excise duty), and
 - (ii) paragraphs 12 and 13 of Schedule 7 (insurance premium tax: civil penalties),
 - (b) paragraphs 18 and 19 of Schedule 5 to the Finance Act 1996⁽⁶⁾ (landfill tax: civil penalties: evasion and misdeclaration or neglect),
 - (c) paragraphs 98 and 99 of Schedule 6 to the Finance Act 2000⁽⁷⁾ (climate change levy: civil penalties: evasion, liability of directors and misdeclaration or neglect),
 - (d) in Schedule 6 to the Finance Act 2001⁽⁸⁾—
 - (i) paragraphs 7 and 8 (aggregates levy: civil penalties: evasion, liability of directors and misdeclaration or neglect), and

(3) 1984 c. 51.

(4) Paragraph 1A of Schedule 24 to the Finance Act 2007 was inserted by paragraph 3 of Schedule 40 to the Finance Act 2008.

(5) 1994 c. 9; section 8 was repealed by paragraph 21(d)(i) of Schedule 40 to the Finance Act 2008 and paragraphs 12 and 13 of Schedule 7 were repealed by paragraph 21(d)(ii) of Schedule 40 to the Finance Act 2008.

(6) 1996 c. 8; paragraphs 18 and 19 of Schedule 5 were repealed by paragraph 21(e) of Schedule 40 to the Finance Act 2008.

(7) 2000 c. 17.

(8) 2001 c. 9; paragraphs 7 and 8 of Schedule 6 were repealed by paragraph 21(i) of Schedule 40 to the Finance Act 2008.

- (ii) paragraph 9A(5)(b)(9) (penalty under paragraph 7 above),
- (e) section 133(2) to (4) of the Finance Act 2002(10) (aggregates levy: amendments to provisions about civil penalties).

7. Notwithstanding paragraph 29(d) of Schedule 24 (consequential amendments), sections 60 and 61 of the Value Added Tax Act 1994(11) (VAT evasion) shall continue to have effect with respect to conduct involving dishonesty which does not relate to an inaccuracy in a document or a failure to notify HMRC of an under-assessment by HMRC.

Consequential amendments to enactments

8. Schedule 1 contains amendments of enactments in consequence of the provisions omitted by paragraph 21 and by paragraph 29 of Schedule 24.

9. Schedule 2 contains consequential amendments to secondary legislation.

Steve McCabe

Dave Watts

Two of the Lords Commissioners of Her
Majesty's Treasury

9th March 2009

(9) Paragraph 9A of Schedule 6 to the Finance Act 2001 was inserted by section 133(5) and (6) of the Finance Act 2002 (c. 23). Paragraph 9A(5)(b) was repealed by paragraph 21(i) of Schedule 40 to the Finance Act 2008.

(10) 2002 c. 23; section 133(2) to (4) of the Finance Act 2002 was repealed by paragraph 21(j) of Schedule 40 to the Finance Act 2008.

(11) 1994 c. 23; sections 60 and 61 were omitted by section 97 of and paragraph 29(d) of Schedule 24 to the Finance Act 2007.