
STATUTORY INSTRUMENTS

2011 No. 2391 (C. 84)

**INCOME TAX
CORPORATION TAX**

The Finance (No. 3) Act 2010, Schedule 10 and the Finance Act 2009, Schedule 55 and Sections 101 to 103 (Appointed Day, etc) (Construction Industry Scheme) Order 2011

Made - - - - 29th September 2011

The Treasury make this Order exercising the powers in sections 26(2) to 26(4) of the Finance (No. 3) Act 2010(1), and sections 104(3) to 104(5) and 106(2) to 106(5) of the Finance Act 2009(2).

1. This Order may be cited as the Finance (No. 3) Act 2010, Schedule 10 and the Finance Act 2009, Schedule 55 and Sections 101 to 103 (Appointed Day, etc) (Construction Industry Scheme) Order 2011.

2. 6th October 2011 is appointed as the day the following provisions come into force:

- (a) paragraphs 5, 6 and 10 of Schedule 10 to the Finance (No. 3) Act 2010 (and, but only as relevant to those provisions, paragraph 1 of that Schedule);
- (b) these paragraphs of Schedule 55 to the Finance Act 2009(3) (“Schedule 55”): 1 (but only in relation to item 6 in the Table in paragraph 1(5) of that Schedule (“item 6”)), 7 to 13, and – but only as relevant to those provisions – 14 to 24, 26, and 27(1) to 27(4);
- (c) sections 101 to 103 of the Finance Act 2009, but only in relation to a penalty under paragraphs 7 to 13 of Schedule 55.

3.—(1) Articles 2(a) and 2(b) only have effect in relation to a return within item 6, and for which the filing date for the purposes of Schedule 55 is after 19th October 2011(4).

(2) The provisions in article 2(b) come into force subject to those in article 2(a).

(1) 2010 c. 33.

(2) 2009 c. 10.

(3) 2009 c. 10; relevant amendments to Schedule 55 are brought into force by article 2(a) of this Order.

(4) Item 6 covers Construction Industry Scheme monthly returns, with the “filing date” defined in paragraph 1(4) of Schedule 55. These returns relate to periods starting on the 6th of a month and ending on the 5th of the next month, and their filing date is the 19th of the latter month: see [S.I. 2005/2045](#), regulation 4(1) and regulation 2.

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(3) On 6th October 2011, this paragraph amends regulation 4(13) of the Income Tax (Construction Industry Scheme) Regulations 2005⁽⁵⁾ by inserting the following after “appointed day”: “, but only arises where that failure relates to a return that must be made not later than 19th October 2011”.

29th September 2011

Jeremy Wright
Angela Watkinson
Two of the Lords Commissioners of Her
Majesty’s Treasury

(5) [S.I. 2005/2045](#), to which there are amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

Under the income and corporation taxes Construction Industry Scheme, a contractor making contract payments⁽⁶⁾ must make a monthly return to HM Revenue & Customs (“HMRC”) not later than the 19th day of each month⁽⁷⁾.

This Order appoints 6 October 2011 as the day on which two changes to the Scheme enter force.

First, penalties for failure to comply will arise under the Finance Act 2009, Schedule 55 instead of as provided for by S.I. 2005/2045⁽⁸⁾.

Second, late payment of that penalty (or late repayment by HMRC) will carry interest under the Finance Act 2009, sections 101 to 103⁽⁹⁾.

A full Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the HMRC website at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.

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- (6) Or payments that would be contract payments but for the Finance Act 2004 (c. 12), section 60(4) (exception for payee registered for gross payment, etc under the Scheme).
- (7) S.I. 2005/2045, regulation 4(1) (and see also footnote (d) on page 1).
- (8) Articles 2(a), 2(b) and 3 of this Order. (Article 2(a) brings into force on 6 October 2011 relevant amendments to the Finance Act 2009 (c. 10), Schedule 55 made by the Finance (No. 3) Act 2010 (c. 33), Schedule 10. Articles 2(b), 3(1) and 3(2) simultaneously bring the new penalty regime into force, incorporating those amendments, for returns due after 19 October 2011. Article 3(3) makes a consequential amendment to the old penalty regime in S.I. 2005/2045, regulations 4(12) and 4(13) which continue to apply for returns due no later than 19 October 2011.)
- (9) Article 2(c) of this Order, which brings into force for these purposes on 6 October 2011 the Finance Act 2009 (c. 10), sections 101 to 103.