



# Revenue Scotland and Tax Powers Act 2014

2014 asp 16

## PART 8

### PENALTIES

#### CHAPTER 4

##### PENALTIES RELATING TO INVESTIGATIONS

##### *Penalties for failure to comply or obstruction*

#### **195 Penalties for failure to comply or obstruction**

- (1) This section applies to a person who—
  - (a) fails to comply with an information notice, or
  - (b) deliberately obstructs a designated officer or a person authorised by the officer in the course of an inspection or in the exercise of a power that has been approved by the tribunal under section 147.
- (2) The person is liable to a penalty of £300.
- (3) The reference to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document in breach of section 198 or 199.

#### **Commencement Information**

**11** [S. 195](#) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

**Changes to legislation:** Revenue Scotland and Tax Powers Act 2014, CHAPTER 4 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## 196 Daily default penalties for failure to comply or obstruction

- (1) This section applies if the failure or obstruction mentioned in section 195(1) continues after the date on which a penalty is imposed under that section in respect of the failure or obstruction.
- (2) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure or obstruction continues.

### Commencement Information

**I2** S. 196 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

### *Penalties for inaccurate information or documents*

## 197 Penalties for inaccurate information or documents

- (1) This section applies if—
  - (a) in complying with an information notice, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  - (b) condition A, B or C is met.
- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.
- (4) Condition B is that the person knows of the inaccuracy at the time the information is provided or the document produced but does not inform Revenue Scotland at that time.
- (5) Condition C is that the person—
  - (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform Revenue Scotland.
- (6) The person is liable to a penalty not exceeding £3,000.
- (7) Where the information or document contains more than one inaccuracy, a penalty is payable for each inaccuracy.

### Commencement Information

**I3** S. 197 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

### *Penalties for concealing, destroying etc. documents*

## 198 Concealing, destroying etc. documents following information notice

- (1) A person must not conceal, destroy or otherwise dispose of (or arrange for the concealment, destruction or disposal of) a document that is the subject of an information notice addressed to the person, unless subsection (2) or (3) applies.
- (2) Subsection (1) does not apply if the person acts after the document has been produced to a designated officer in accordance with the information notice, unless a designated

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officer has notified the person that the document must continue to be available for inspection (and has not withdrawn the notification).

- (3) Subsection (1) does not apply, in a case to which section 133 applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was produced in accordance with that section unless, before the expiry of that period, a designated officer made a request for the original document under section 133(2)(b).

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**Commencement Information**

**I4** [S. 198](#) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

## **199 Concealing, destroying etc. documents following information notification**

- (1) A person must not conceal, destroy or otherwise dispose of (or arrange for the concealment, destruction or disposal of) a document if a designated officer has notified the person that the document is to be, or is likely to be, the subject of an information notice addressed to that person, unless subsection (2) applies.
- (2) Subsection (1) does not apply if the person acts after—
- at least 6 months has expired since the person was (or was last) so notified, or
  - an information notice has been given to the person requiring the document to be produced.

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**Commencement Information**

**I5** [S. 199](#) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

*Penalties: failure to comply with time limit*

## **200 Failure to comply with time limit**

A failure by a person to do anything required to be done within a limited period of time does not give rise to liability to a penalty under section 195 or 196 if the person did it within such further time (if any) as a designated officer may have allowed.

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**Commencement Information**

**I6** [S. 200](#) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

*Penalties under Chapter 4: general*

## **201 Reasonable excuse for failure to comply or obstruction**

- (1) Liability to a penalty under section 195 or 196 does not arise if the person satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for the failure or the obstruction of a designated officer or of a person authorised by the officer.

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(2) For the purposes of this section—

- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
- (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction, and
- (c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

#### Commencement Information

**I7** S. 201 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## 202 Assessment of penalties under sections 195, 196 and 197

- (1) Where a person becomes liable for a penalty under section 195, 196 or 197 Revenue Scotland must—
  - (a) assess the penalty, and
  - (b) notify the person.
- (2) An assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to subsection (3).
- (3) In a case involving an information notice against which a person may appeal, an assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the latest of the following—
  - (a) the date on which the person became liable to the penalty,
  - (b) the end of the period in which notice of an appeal against the information notice could have been given, and
  - (c) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn.
- (4) An assessment of a penalty under section 197 must be made—
  - (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of a designated officer, and
  - (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.

#### Commencement Information

**I8** S. 202 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## 203 Enforcement of penalties under sections 195, 196 and 197

- (1) A penalty under section 195, 196 or 197 must be paid—

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- (a) before the end of the period of 30 days beginning with the date on which the notification under section 202 was issued,
  - (b) if a notice of review against the penalty is given, before the end of the period of 30 days beginning with the date on which the review is concluded,
  - (c) if, following review, mediation is entered into, before the end of the period of 30 days beginning with the date either Revenue Scotland or the person who gave the notice of review gave notice of withdrawal from mediation, or
  - (d) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under section 195, 196 or 197 is to be treated for enforcement purposes as an assessment to tax.

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**Commencement Information**

**I9** S. 203 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## 204 Increased daily default penalty

- (1) This section applies if—
- (a) a penalty under section 196 is assessed under section 202 in respect of a person's failure to comply with a notice under section 127,
  - (b) the failure continues for more than 30 days beginning with the date on which notification of that assessment was issued, and
  - (c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.
- (2) If this section applies, a designated officer may make an application to the tribunal for an increased daily penalty to be imposed on the person.
- (3) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—
- (a) the person is not liable to a penalty under section 196 for the failure, and
  - (b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.
- (4) The tribunal may not determine an amount exceeding £1,000 for each applicable day.
- (5) In determining the amount the tribunal must have regard to—
- (a) the likely cost to the person of complying with the notice,
  - (b) any benefits to the person of not complying with it, and
  - (c) any benefits to anyone else resulting from the person's non-compliance.
- (6) If a person becomes liable to a penalty under this section, Revenue Scotland must notify the person.
- (7) The notification must specify the day from which the increased penalty is to apply.
- (8) That day and any subsequent day is an “applicable day” for the purposes of subsection (3).

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#### Commencement Information

**I10** S. 204 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

### 205 Enforcement of increased daily default penalty

- (1) A penalty under section 204 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.
- (2) A penalty under section 204 is to be treated for enforcement purposes as an assessment to tax.

#### Commencement Information

**I11** S. 205 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

### 206 Tax-related penalty

- (1) This section applies where—
  - (a) a person becomes liable to a penalty under section 195,
  - (b) the failure or obstruction continues after a penalty is imposed under that section,
  - (c) a designated officer has reason to believe that, as a result of the failure or obstruction, the amount of tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,
  - (d) before the end of the period of 12 months beginning with the relevant date, a designated officer makes an application to the Upper Tribunal for an additional penalty to be imposed on the person, and
  - (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.
- (2) The person is liable to a penalty of an amount decided by the Upper Tribunal.
- (3) In deciding the amount of the penalty, the Upper Tribunal must have regard to the amount of tax which has not been, or is not likely to be, paid by the person.
- (4) Where a person becomes liable to a penalty under this section, Revenue Scotland must notify the person.
- (5) Any penalty under this section is in addition to the penalty or penalties under section 195 or 196.
- (6) In subsection (1)(d) the “relevant date” means—
  - (a) in a case involving an information notice against which a person may appeal, the latest of—
    - (i) the date on which the person became liable to the penalty under section 195,
    - (ii) the end of the period in which notice of an appeal against the information notice could have been given, and
    - (iii) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn, and

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- (b) in any other case, the date on which the person became liable to the penalty under section 195.

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**Commencement Information**

**I12** S. 206 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## 207 Enforcement of tax-related penalty

- (1) A penalty under section 206 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.
- (2) A penalty under section 206 is to be treated for enforcement purposes as an assessment to tax.

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**Commencement Information**

**I13** S. 207 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## 208 Power to change penalty provisions in Chapter 4

- (1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter (other than penalties under section 206).
- (2) Regulations under subsection (1) may include provision—
- (a) about the circumstances in which a penalty is payable,
  - (b) about the amounts of penalties,
  - (c) about the procedure for issuing penalties,
  - (d) about appealing penalties,
  - (e) about enforcing penalties.
- (3) Regulations under subsection (1) may also include provision for the purposes of sections 151(6) and (7) and 231(2) and (3).
- (4) Regulations under subsection (1) may not create criminal offences.
- (5) Regulations under subsection (1) may modify any enactment (including this Act).
- (6) Regulations under subsection (1) do not apply to a failure or obstruction which began before the date on which the regulations come into force.

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**Commencement Information**

**I14** S. 208 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 141(3A)(3B) inserted by [2017 asp 2 Sch. 2 para. 2\(2\)](#)
- s. 215A-215G and cross-headings inserted by [2017 asp 2 Sch. 2 para. 21](#)
- s. 223(1)(d)(e) inserted by [2017 asp 2 Sch. 2 para. 24](#)
- s. 233(1)(j) inserted by [2017 asp 2 Sch. 2 para. 25\(2\)](#)
- s. 233(3A) inserted by [2017 asp 2 Sch. 2 para. 25\(3\)](#)