



Finance Act 2002

2002 CHAPTER 23

PART 6

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Mandatory e-filing

135 Mandatory e-filing

- (1) [^{F1}The Commissioners for Her Majesty's Revenue and Customs] ("the Commissioners") may make regulations requiring the use of electronic communications for the delivery by specified persons of specified information required or authorised to be delivered by or under legislation relating to a taxation matter.
- (2) Regulations under this section may make provision—
 - (a) as to the electronic form to be taken by information delivered to the [^{F2}Revenue and Customs] using electronic communications;
 - (b) requiring persons to prepare and keep records of information delivered to [^{F2}Revenue and Customs] by means of electronic communications;
 - (c) for the production of the contents of records kept in accordance with the regulations;
 - (d) as to conditions that must be complied with in connection with the use of electronic communications for the delivery of information;
 - (e) for treating information as not having been delivered unless conditions imposed by any of the regulations are satisfied;
 - (f) for determining the time at which and person by whom information is to be taken to have been delivered;
 - (g) for authenticating whatever is delivered.
- (3) Regulations under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—

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- (a) whether any use of electronic communications is to be taken as having resulted in the delivery of information;
 - (b) the time of delivery of any information for the delivery of which electronic communications have been used;
 - (c) the person by whom information delivered by means of electronic communications was delivered;
 - (d) the contents of anything so delivered;
 - (e) the contents of any records;
 - (f) any other matter for which provision may be made by regulations under this section.
- (4) Regulations under this section may—
- (a) allow any authorisation or requirement for which the regulations may provide to be given or imposed by means of a specific or general direction given by the Commissioners;
 - (b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the [F²Revenue and Customs] are satisfied as to specified matters;
 - (c) allow a person to refuse to accept delivery of information in an electronic form or by means of electronic communications except in such circumstances as may be specified in or determined under the regulations;
 - (d) allow or require use to be made of intermediaries in connection with—
 - (i) the delivery of information by means of electronic communications;
 - or
 - (ii) the authentication or security of anything transmitted by any such means.
- (5) Regulations under this section may contain provision—
- (a) requiring the [F²Revenue and Customs] to notify persons appearing to them to be, or to have become, a person of a specified description and accordingly required to use electronic communications for any purpose in accordance with the regulations,
 - (b) enabling a person so notified to have the question whether he is a person of such a description determined in the same way as an appeal.
- (6) Regulations under this section may provide—
- (a) that information delivered by means of electronic communications must meet standards of accuracy and completeness set by specific or general directions given by the Commissioners, and
 - (b) that failure to meet those standards may be treated—
 - (i) as a failure to deliver the information, or
 - (ii) as a failure to comply with the requirements of the regulations.
- (7) The power to make provision by regulations under this section includes power—
- (a) to provide for a contravention of, or any failure to comply with, the regulations to attract a penalty of a specified amount not exceeding £3,000;
 - (b) to provide that specified enactments relating to penalties imposed for the purposes of any taxation matter (including enactments relating to assessments, review and appeal) apply, with or without modifications, in relation to penalties under the regulations;

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- [^{F3}(ba) to specify other consequences of contravention of, or failure to comply with, the regulations (which may include disregarding a return delivered otherwise than by the use of electronic communications);]
- (c) to make different provision for different cases;
- (d) to make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any of the regulations as the Commissioners think fit.
- (8) References in this section to the delivery of information include references to any of the following (however referred to)—
- (a) the production or furnishing to a person of any information, account, record or document;
- (b) the giving, making, issue or surrender to, or service on, any person of any notice, notification, statement, declaration, certificate or direction;
- (c) the imposition on any person of any requirement or the issue to any person of any request;
- (d) the making of any return, claim, election or application;
- (e) the amendment or withdrawal of anything mentioned in paragraphs (a) to (d) above.
- (9) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section—
- [^{F4}“ the Revenue and Customs ” means—
- (a) the Commissioners,
- (b) any officer of Revenue and Customs, and
- (c) any other person who for the purposes of electronic communications is acting under the authority of the Commissioners;]
- “legislation” means any enactment, [^{F5}EU] legislation or subordinate legislation;
- “specified” means specified by or under regulations under this section;
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30);
- [^{F6}“taxation matter” means any matter relating to a tax (or duty) for which the Commissioners are responsible.]

Textual Amendments

- F1** Words in s. 135(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 95\(1\)\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F2** Words in s. 135(2)-(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 95\(1\)\(b\)](#); S.I. 2005/1126, art. 2(2)(h)
- F3** S. 135(7)(ba) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 93\(2\)](#)
- F4** Words in s. 135(10) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 95\(1\)\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F5** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\), arts. 2, 3, 6 \(with arts. 3\(2\)\(3\), 4\(2\), 6\(4\)\(5\)\)](#)
- F6** Words in s. 135(10) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 93\(3\)](#)

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Modifications etc. (not altering text)

- C1** S. 135(8) applied by SI 2001/1004 reg. 90A(2) (as inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **23**)

136 Use of electronic communications under other provisions

- (1) Any power to make subordinate legislation for or in connection with the delivery of information conferred in relation to a taxation matter on—
- (a) the Commissioners of Inland Revenue, or
 - (b) the Treasury,
- includes power to make any such provision in relation to the delivery of that information as could be made in exercise of the power conferred by section 135.
- (2) Provision made in exercise of the powers conferred by section 135 or subsection (1) above has effect notwithstanding so much of any enactment or subordinate legislation as would otherwise—
- (a) allow information to be delivered otherwise than by means of electronic communications, or
 - (b) preclude the use of an intermediary in connection with its delivery.
- (3) Expressions used in this section and section 135 have the same meaning in this section as in that section.
- (4) Nothing in this section shall be read as restricting the generality of the power conferred by section 135.

Changes to legislation:

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