Changes to legislation: *Finance Act 2009, Cross Heading: Amount of penalty: occasional returns and annual returnsAmount of penalty: occasional returns and returns for periods of 6 months or more is up to date with all changes known to be in force on or before 21 September 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*

SCHEDULES

SCHEDULE 55

PENALTY FOR FAILURE TO MAKE RETURNS ETC

Modifications etc. (not altering text)

C1 Sch. 55 applied (with modifications) by S.I. 2001/1004, **Sch. 4 para. 21G** (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Social Security (Contributions) (Amendment No. 4) Regulations 2014 (S.I. 2014/2397), regs. 1(1), **3(5)**)

C1 Sch. 55 modified (8.4.2010) by Finance Act 2010 (c. 13), **Sch. 1 para. 38**

C1 Sch. 55 applied (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **42(3)** (with reg. 1(3))

C1 Sch. 55 applied (with modifications) by 1992 c.7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by National Insurance Contributions Act 2015 (c. 5), **Sch. 1 para. 12**)

C1 Sch. 55 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by The Education (Postgraduate Masters Degree Loans) Regulations 2016 (S.I. 2016/606), regs. 1(1), **50(1)**(2)

C1 Sch. 55 applied (with modifications) by 1992 c. 4, **s. 11A(1)(3)** (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by National Insurance Contributions Act 2015 (c. 5), **Sch. 1 para. 3**)

C1 Sch. 55 applied by S.I. 2009/470, **reg. 40(1)(2)** (as substituted (6.4.2011) by The Education (Student Loans) (Repayment) (Amendment) Regulations 2011 (S.I. 2011/784), regs. 1(1), **9** (with reg. 12(2)))

C1 Sch. 55 modified (temp.) (with effect in accordance with Sch. 10 para. 43 of the amending Act) by Finance Act 2022 (c. 3), **Sch. 10 para. 26** (as amended (5.1.2023) by S.I. 2022/1321, regs. 1, **2(2)**

C1 Sch. 55 applied by S.R. 2009/128, **reg. 35** (as substituted (6.4.2011) by The Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/137), regs. 1(1), **8(a)** (with reg. 12))

[F1 Amount of penalty: occasional returns and annual returns][F1 Amount of penalty: occasional returns and returns for periods of 6 months or more]

Textual Amendments

F1 Sch. 55 para. 2 and cross-heading substituted (12.2.2019 for the purposes of soft drinks industry levy) by Finance (No. 3) Act 2010 (c. 33), s. 26(2), **Sch. 10 para. 3**; 2019 c. 1, s. 67(2)

[F12 **[F1**(1) Paragraphs 3 to 6 apply in the case of—

(a) a return falling within any of items **[F3**1 to 5**][F3**2A, 4, 4A, 5**]**, 7 and 8 to 13 in the Table,

(b) a return falling within any of items 7A, 7B and 14 to **[F4**28**][F4**29**]** which relates to a period of 6 months or more, and

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(c) a return falling within item 7A which relates to a transitional period for the purposes of the annual accounting scheme.

(2) In sub-paragraph (1)(c), a transitional period for the purposes of the annual accounting scheme is a prescribed accounting period (within the meaning of section 25(1) of VATA 1994) which—

(a) ends on the day immediately preceding the date indicated by the Commissioners for Her Majesty's Revenue and Customs in a notification of authorisation under regulation 50 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (admission to annual accounting scheme), or

(b) begins on the day immediately following the end of the last period of 12 months for which such an authorisation has effect.**]**

Textual Amendments

F2 Words in Sch. 55 para. 2 substituted (with effect in accordance with Sch. 50 para. 16(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 50 para. 5**

F3 Words in Sch. 55 para. 2(1)(a) substituted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 39(3)**; S.I. 2024/440, reg. 2

F4 Word in Sch. 55 para. 2(1)(b) substituted (in relation to the playing of machine games on or after 1.2.2013) by Finance Act 2012 (c. 14), Sch. 24 paras. 32(a), **66(2)**

Modifications etc. (not altering text)

C1 Sch. 55 para. 2 modified (cond.) (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 39(6)**; S.I. 2024/440, reg. 2

Commencement Information

I1 Sch. 55 para. 2 in force at 1.4.2011 for specified purposes and 6.4.2011 for specified purposes by S.I. 2011/702, **art. 2** (with art. 1(2))

I2 Sch. 55 para. 2 in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I3 Sch. 55 para. 2 in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I4 Sch. 55 para. 2 in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

3 P is liable to a penalty under this paragraph of £100.

Commencement Information

I5 Sch. 55 para. 3 in force at 1.4.2011 for specified purposes and 6.4.2011 for specified purposes by S.I. 2011/702, **art. 2** (with art. 1(2))

I6 Sch. 55 para. 3 in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I7 Sch. 55 para. 3 in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I8 Sch. 55 para. 3 in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

4 (1) P is liable to a penalty under this paragraph if (and only if)—

(a) P's failure continues after the end of the period of 3 months beginning with the penalty date,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to P specifying the date from which the penalty is payable.

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(2) The penalty under this paragraph is £10 for each day that the failure continues during the period of 90 days beginning with the date specified in the notice given under sub-paragraph (1)(c).

(3) The date specified in the notice under sub-paragraph (1)(c)—

(a) may be earlier than the date on which the notice is given, but

(b) may not be earlier than the end of the period mentioned in sub-paragraph (1)(a).

Commencement Information

I9 Sch. 55 para. 4 in force at 1.4.2011 for specified purposes and 6.4.2011 for specified purposes by S.I. 2011/702, **art. 2** (with art. 1(2))

I10 Sch. 55 para. 4 in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I11 Sch. 55 para. 4 in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I12 Sch. 55 para. 4 in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

5 (1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.

(2) The penalty under this paragraph is the greater of—

(a) 5% of any liability to tax which would have been shown in the return in question, and

(b) £300.

Commencement Information

I13 Sch. 55 para. 5 in force at 1.4.2011 for specified purposes and 6.4.2011 for specified purposes by S.I. 2011/702, **art. 2** (with art. 1(2))

I14 Sch. 55 para. 5 in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I15 Sch. 55 para. 5 in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I16 Sch. 55 para. 5 in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

6 (1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P **[**[F5]deliberately**]** withholds information which would enable or assist HMRC to assess P's liability to tax, the penalty under this paragraph is determined in accordance with sub-paragraphs (3) and (4).

(3) If the withholding of the information is deliberate and concealed, the penalty is the greater of—

(a) 100% of any liability to tax which would have been shown in the return in question, and

(b) £300.

[[F6](3A) For the purposes of sub-paragraph (3)(a), the relevant percentage is—

(a) for the withholding of category 1 information, **[**[F7]the relevant percentage**]**,

(b) for the withholding of category 2 information, 150%, and

(c) for the withholding of category 3 information, 200%.**]**

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(4) If the withholding of the information is deliberate but not concealed, the penalty is the greater of—

(a) **[**[F8]the relevant percentage**]** of any liability to tax which would have been shown in the return in question, and

(b) £300.

[[F9](4A) For the purposes of sub-paragraph (4)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 70%,

(b) for the withholding of category 2 information, 105%, and

(c) for the withholding of category 3 information, 140%.**]**

(5) In **[**[F10]any other case**][**[F10]any case not falling within sub-paragraph (2)**]**, the penalty under this paragraph is the greater of—

(a) 5% of any liability to tax which would have been shown in the return in question, and

(b) £300.

[[F11](6) Paragraph 6A explains the 3 categories of information.**]**

Textual Amendments

F5 Word in Sch. 55 para. 6(2) inserted (1.4.2011 for specified purposes, 6.4.2011 for specified purposes, 12.2.2019 for specified purposes) by Finance (No. 3) Act 2010 (c. 33), s. 26(2), **Sch. 10 para. 4(2)**; S.I. 2011/703, art. 2(a)(b); 2019 c. 1, s. 67(2)

F6 Sch. 55 para. 6(3A) inserted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 10 para. 11(3)**; S.I. 2011/975, art. 2(2) (with art. 5)

F7 Words in Sch. 55 para. 6(3)(a) substituted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 10 para. 11(2)**; S.I. 2011/975, art. 2(2) (with art. 5)

F8 Words in Sch. 55 para. 6(4)(a) substituted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 10 para. 11(4)**; S.I. 2011/975, art. 2(2) (with art. 5)

F9 Sch. 55 para. 6(4A) inserted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 10 para. 11(5)**; S.I. 2011/975, art. 2(2) (with art. 5)

F10 Words in Sch. 55 para. 6(5) substituted (1.4.2011 for specified purposes, 6.4.2011 for specified purposes, 12.2.2019 for specified purposes) by Finance (No. 3) Act 2010 (c. 33), s. 26(2), **Sch. 10 para. 4(3)**; S.I. 2011/703, art. 2(a)(b); 2019 c. 1, s. 67(2)

F11 Sch. 55 para. 6(6) inserted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 10 para. 11(6)**; S.I. 2011/975, art. 2(2) (with art. 5)

Commencement Information

I17 Sch. 55 para. 6 in force at 1.4.2011 for specified purposes by S.I. 2011/702, **art. 2** (with art. 1(2))

I18 Sch. 55 para. 6 in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I19 Sch. 55 para. 6 in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I20 Sch. 55 para. 6 in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

[[F13]**[**[F12]6A(A1) Information is category 0 information if—

(a) it involves a domestic matter,

(b) it involves an offshore matter or an offshore transfer, the territory in question is a category 0 territory and it is information which would enable or assist HMRC to assess P's liability to income tax, capital gains tax or inheritance tax, or

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(c) it involves an offshore matter and it is information which would enable or assist HMRC to assess P's liability to a tax other than income tax, capital gains tax or inheritance tax.

(1) Information is category 1 information if—
- (a) it involves an offshore matter or an offshore transfer,
- (b) the territory in question is a category 1 territory, and
- (c) it is information which would enable or assist HMRC to assess P's liability to income tax, capital gains tax or inheritance tax.**]**

(2) Information is category 2 information if—
- (a) it involves an offshore matter **[**[F14]or an offshore transfer**]**,
- (b) the territory in question is a category 2 territory, and
- (c) it is information which would enable or assist HMRC to assess P's liability to income tax**[**[F15], capital gains tax or inheritance tax**]**.

(3) Information is category 3 information if—
- (a) it involves an offshore matter **[**[F16]or an offshore transfer**]**,
- (b) the territory in question is a category 3 territory, and
- (c) it is information which would enable or assist HMRC to assess P's liability to income tax**[**[F17], capital gains tax or inheritance tax**]**.

(4) Information "involves an offshore matter" if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to—
- (a) income arising from a source in a territory outside the UK,
- (b) assets situated or held in a territory outside the UK,
- (c) activities carried on wholly or mainly in a territory outside the UK, or
- (d) anything having effect as if it were income, assets or activities of a kind described above.

[F18]**[** (4A) If the liability to tax which would have been shown in the return is a liability to inheritance tax, assets are treated for the purposes of sub-paragraph (4) as situated or held in a territory outside the UK if they are so situated or held immediately after the transfer of value by reason of which inheritance tax becomes chargeable.

(4B) Information "involves an offshore transfer" if—
- (a) it does not involve an offshore matter,
- (b) it is information which would enable or assist HMRC to assess P's liability to income tax, capital gains tax or inheritance tax,
- (c) by failing to make the return, P deliberately withholds the information (whether or not the withholding of the information is also concealed), and
- (d) the applicable condition in paragraph 6AA is satisfied.**]**

(5) Information "involves a domestic matter" if **[**[F19]it does not involve an offshore matter or an offshore transfer**]**.

(6) If the information which P withholds falls into more than one category—
- (a) P's failure to make the return is to be treated for the purposes of this Schedule as if it were separate failures, one for each category of information according to the matters **[**[F20]or transfers**]** which the information involves, and

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(b) for each separate failure, the liability to tax which would have been shown in the return in question is taken to be such share of the liability to tax which would have been shown in the return mentioned in paragraph (a) as is just and reasonable.

(7) For the purposes of this Schedule—

(a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but

(b) an order under that paragraph does not apply to a failure if the filing date is before the date on which the order comes into force.

[F21](8) . . . . . .

(9) In this paragraph **[**[F22]and paragraph 6AA**]**—

"assets" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;

"UK" means the United Kingdom, including the territorial sea of the United Kingdom.**]**

Textual Amendments

F12 Sch. 55 para. 6A inserted (6.4.2011 for specified purposes) by Finance Act 2010 (c. 13), s. 35(2), **Sch. 12** ; S.I. 2011/975, **art. 2(2)** (with art. 5)

F13 Sch. 55 para. 6A(A1)(1) substituted for Sch. 55 para. 6A(1) (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(2)**; S.I. 2016/456, art. 5(1)

F14 Words in Sch. 55 para. 6A(2)(a) inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(3)(a)**; S.I. 2016/456, art. 5(1)

F15 Words in Sch. 55 para. 6A(2)(c) substituted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(3)(b)**; S.I. 2016/456, art. 5(1)

F16 Words in Sch. 55 para. 6A(3)(a) inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(4)(a)**; S.I. 2016/456, art. 5(1)

F17 Words in Sch. 55 para. 6A(3)(c) substituted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(4)(b)**; S.I. 2016/456, art. 5(1)

F18 Sch. 55 para. 6A(4A)(4B) inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(5)**; S.I. 2016/456, art. 5(1)

F19 Words in Sch. 55 para. 6A(5) substituted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(6)**; S.I. 2016/456, art. 5(1)

F20 Words in Sch. 55 para. 6A(6)(a) inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(7)**; S.I. 2016/456, art. 5(1)

F21 Sch. 55 para. 6A(8) omitted (with effect in accordance with art. 5(2) of the commencing S.I.) by virtue of Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(8)**; S.I. 2016/456, art. 5(1)

F22 Words in Sch. 55 para. 6A(9) inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 16(9)**; S.I. 2016/456, art. 5(1)

Commencement Information

I21 Sch. 55 para. 6A in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I22 Sch. 55 para. 6A in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I23 Sch. 55 para. 6A in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

[[F23]6AA(1) This paragraph makes provision in relation to offshore transfers.

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(2) Where the liability to tax which would have been shown in the return is a liability to income tax, the applicable condition is satisfied if the income on or by reference to which the tax is charged, or any part of the income—
  (a) is received in a territory outside the UK, or
  (b) is transferred before the relevant date to a territory outside the UK.

(3) Where the liability to tax which would have been shown in the return is a liability to capital gains tax, the applicable condition is satisfied if the proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds—
  (a) are received in a territory outside the UK, or
  (b) are transferred before the relevant date to a territory outside the UK.

(4) Where the liability to tax which would have been shown in the return is a liability to inheritance tax, the applicable condition is satisfied if—
  (a) the disposition that gives rise to the transfer of value by reason of which the tax becomes chargeable involves a transfer of assets, and
  (b) after that disposition but before the relevant date the assets, or any part of the assets, are transferred to a territory outside the UK.

(5) In the case of a transfer falling within sub-paragraph (2)(b), (3)(b) or (4)(b), references to the income, proceeds or assets transferred are to be read as including references to any assets derived from or representing the income, proceeds or assets.

(6) In relation to an offshore transfer, the territory in question for the purposes of paragraph 6A is the highest category of territory by virtue of which the information involves an offshore transfer.

(7) "Relevant date" means the date on which P becomes liable to a penalty under paragraph 6.

Textual Amendments

F23 Sch. 55 paras. 6AA, 6AB inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 17**; S.I. 2016/456, art. 5(1)

Commencement Information

I24 Sch. 55 para. 6AA in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I25 Sch. 55 para. 6AA in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

I26 Sch. 55 para. 6AA in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

6AB Regulations under paragraph 21B of Schedule 24 to FA 2007 (location of assets etc) apply for the purposes of paragraphs 6A and 6AA of this Schedule as they apply for the purposes of paragraphs 4A and 4AA of that Schedule.**]**

Textual Amendments

F23 Sch. 55 paras. 6AA, 6AB inserted (with effect in accordance with art. 5(2) of the commencing S.I.) by Finance Act 2015 (c. 11), s. 120(2), **Sch. 20 para. 17**; S.I. 2016/456, art. 5(1)

Commencement Information

I27 Sch. 55 para. 6AB in force at 6.4.2018 for specified purposes by S.I. 2018/468, **art. 2(b)**

I28 Sch. 55 para. 6AB in force at 12.2.2019 for specified purposes by 2019 c. 1, **Sch. 2 para. 29(3)**

Changes to legislation: *Finance Act 2009, Cross Heading: Amount of penalty: occasional returns and annual returnsAmount of penalty: occasional returns and returns for periods of 6 months or more is up to date with all changes known to be in force on or before 21 September 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*

I29 Sch. 55 para. 6AB in force at 1.4.2022 for specified purposes by S.I. 2021/1409, **reg. 2(b)**

Changes to legislation:
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View outstanding changes

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. 102(4)(za) inserted by 2010 c. 33 Sch. 9 para. 3(3)
- Sch. 53 para. 2A-2D and cross-heading inserted by 2010 c. 33 Sch. 9 para. 7
- Sch. 53 para. 6A and cross-heading inserted by 2010 c. 33 Sch. 9 para. 8
- Sch. 53 para. 11A11B and cross-heading inserted by 2010 c. 33 Sch. 9 para. 17
- Sch. 53 para. 14A and cross-heading inserted by 2010 c. 33 Sch. 9 para. 18
- Sch. 54 para. 9B9C and cross-heading inserted by 2010 c. 33 Sch. 9 para. 11 (Sch. 54 para. 9B is amended before it comes into force by 2016 c. 24, Sch. 1 para. 66(5))
- Sch. 54 para. 12A12B and cross-heading inserted by 2010 c. 33 Sch. 9 para. 19
- Sch. 54 Pt. A1 inserted by 2010 c. 33 Sch. 9 para. 10 (Sch. 9 para. 10 is amended before it comes into force by 2017 c. 32, Sch. 4 para. 182)
- Sch. 54A para. 2(e)-(g) omitted by 2024 c. 3 Sch. 2 para. 13
- Sch. 55 para. 6(3A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(2)(a)
- Sch. 55 para. 6(4A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(3)(a)
- Sch. 55 para. 17(4)(ba) inserted by 2015 c. 11 Sch. 20 para. 19