

SCHEDULES

SCHEDULE 24

Section 86(2)

AMENDMENTS OF SCHEDULE 36 TO FA 2008

- 1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- 2 (1) Paragraph 5 (power to obtain information and documents about persons whose identity is not known) is amended as follows.
- (2) In sub-paragraph (2), omit “UK”.
- (3) In sub-paragraph (4)—
- (a) in paragraph (b), for the words from “the Taxes Acts” to the end substitute “the law (including the law of a territory outside the United Kingdom) relating to tax,”, and
- (b) in paragraph (c), omit “UK”.
- (4) Omit sub-paragraph (5).
- (5) The amendments made by this paragraph—
- (a) come into force on 1 April 2012, and
- (b) apply from then on in relation to tax regardless of when the tax became due (whether before, on or after that date).
- 3 (1) Paragraph 40A (penalties for inaccurate information and documents) is amended as follows.
- (2) In sub-paragraph (1)(b), for “A or B” substitute “A, B or C”.
- (3) After sub-paragraph (3) insert—
- “(3A) 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 HMRC at that time.”
- (4) In sub-paragraph (4), for “B” substitute “C”.
- (5) The amendments made by this paragraph have effect in relation to any inaccuracy in information provided, or in documents produced, on or after 1 April 2012.
- 4 (1) After paragraph 49 insert—
- “Increased daily default penalty*
- 49A (1) This paragraph applies if—
- (a) a penalty under paragraph 40 is assessed under paragraph 46 in respect of a person’s failure to comply with a notice under paragraph 5,
- (b) the failure continues for more than 30 days beginning with the date on which notification of that assessment was issued, and

Status: This is the original version (as it was originally enacted).

- (c) the person has been told that an application may be made under this paragraph for an increased daily penalty to be imposed.
- (2) If this paragraph applies, an officer of Revenue and Customs 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 (see paragraph 49B) on which the failure continues—
 - (a) the person is not liable to a penalty under paragraph 40 in respect of the failure, and
 - (b) the person is liable instead to a penalty under this paragraph of an amount determined by the tribunal.
- (4) The tribunal may not determine an amount exceeding £1,000 for each applicable day.
- (5) But subject to that, 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) Paragraph 41 applies in relation to the sum specified in sub-paragraph (4) as it applies in relation to the sums mentioned in paragraph 41(1).
- 49B (1) If a person becomes liable to a penalty under paragraph 49A, HMRC must notify the person.
- (2) The notification must specify the day from which the increased penalty is to apply.
- (3) That day and any subsequent day is an “applicable day” for the purposes of paragraph 49A(3).
- 49C (1) A penalty under paragraph 49A must be paid before the end of the period of 30 days beginning with the date on which the notification under paragraph 49B is issued.
- (2) A penalty under paragraph 49A may be enforced as if it were income tax charged in an assessment and due and payable.”
- (2) The amendment made by this paragraph has effect in relation to failures to comply with a notice under paragraph 5 that begin on or after 1 April 2012.
- 5 (1) Paragraph 50 (tax-related penalty) is amended as follows.
- (2) In sub-paragraph (1)(d), omit “(within the meaning of paragraph 46)”.
- (3) After sub-paragraph (6) insert—
 - “(7) In sub-paragraph (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 paragraph 39,
 - (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
 - (b) in any other case, the date on which the person became liable to the penalty under paragraph 39.”
 - (4) The amendments made by this paragraph have effect where a person becomes liable to a penalty under paragraph 39 of Schedule 36 to FA 2008 on or after the day on which this Act is passed.
- 6 In paragraph 61A (involved third parties), in the first column of item 11 of the Table, after “receiving” insert “supplies of”.