

Changes to legislation: Finance Act 2021, SCHEDULE 24 is up to date with all changes known to be in force on or before 02 April 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 24

Section 116

PENALTIES FOR FAILURE TO MAKE RETURNS ETC

PART 1

INTRODUCTION

Introduction

- 1 (1) This Schedule provides for a person who fails to make a return to be liable to penalty points and penalties.
- (2) This Part of this Schedule—
 - (a) identifies groups of returns, and the returns falling within each group, and
 - (b) makes provision about the interpretation of this Schedule.
- (3) Part 2 of this Schedule provides for a person to be liable to penalty points, and penalties, in respect of each group of returns.
- (4) Part 3 of this Schedule makes supplementary provision.

Commencement Information

II Sch. 24 para. 1 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Returns

- 2 (1) The Table identifies, for each item listed in column 1 of the Table, one or more groups of returns (according to the frequency with which returns are required to be made).

<i>Item</i>	<i>Tax</i>	<i>Groups of returns</i>		
		<i>Column A (groups of annual etc returns)</i>	<i>Column B (groups of quarterly etc returns)</i>	<i>Column C (groups of monthly etc returns)</i>
1	Income tax or capital gains tax (persons other than trustees or partnerships)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970.	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970.	

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		(1) Return under section 8 of TMA 1970	(1) Return under section 8 of TMA 1970
		(2) Accounts, statement or document required under section 8(1AB) (b) of TMA 1970	(2) Accounts, statement or document required under section 8(1AB) (b) of TMA 1970
			(3) Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970
			(4) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970
2	Income tax or capital gains tax (trustees)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970.	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970.
		(1) Return under section 8A of TMA 1970	(1) Return under section 8A of TMA 1970
		(2) Accounts, statement or document required under section 8A(1AB) (b) of TMA 1970	(2) Accounts, statement or document required under section 8A(1AB) (b) of TMA 1970
			(3) Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970

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			(4) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970	
3	Income tax or corporation tax (partnerships)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 12AA(2)(a) or (3)(a) of TMA 1970 (2) Accounts, statement or document required under section 12AA(2)(b) or (3)(b) of TMA 1970	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under regulations under paragraph 10 of Schedule A1 to TMA 1970 (2) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970	
4	Value added tax	(1) Return under regulation 50 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) for a current accounting year (2) Return under regulation 25(1)(2)(c) of those regulations for a period which is	(1) Return under regulation 25(1) of the Value Added Tax Regulations 1995 (S.I. 1995/2518), other than a return under regulation 25(1)(a), (b) or (c) Return under regulation 25(1)(c) of those regulations	(1) Return under regulation 25(1)(a) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (2) Return under regulation 25(1)(c) of those regulations for a period which is not more than 8 weeks,

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<p>more than 20 weeks, and is the period for which returns are (or are to be) usually made by the person in question</p>	<p>for a period which is more than 8 weeks but not more than 20 weeks, and is the period for which returns are (or are to be) usually made by the person in question</p>	<p>and is the period for which returns are (or are to be) usually made, or a period for which returns are (or are to be) regularly made, by the person in question</p>
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- (2) Where an entry in column A, B or C of the Table which refers to legislation uses terms used in the legislation, the terms have the same meaning in the entry as in the legislation.
- (3) Before the coming into force of paragraph 3 of Schedule 14 to F(No.2)A 2017, the references in the Table to section 8(1AB)(b) of TMA 1970 are to be read as references to section 8(1)(b) of TMA 1970.
- (4) Before the coming into force of paragraph 4 of Schedule 14 to F(No.2)A 2017, the references in the Table to section 8A(1AB)(b) of TMA 1970 are to be read as references to section 8A(1)(b) of TMA 1970.

Commencement Information

I2 Sch. 24 para. 2 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Interpretation

- 3 (1) This paragraph applies for the interpretation of this Schedule.
- (2) References to the Table are to the Table in paragraph 2 (unless otherwise specified).
- (3) References to “return” include any return, information, statement, account or other document specified in column A, B or C of the Table.
- (4) Each entry in Column A, B or C of the Table is a “group” of returns, and references to returns in or belonging to a group of returns are to be read accordingly.
- (5) References to group 1A are to the group of returns in item 1, column A, to group 1B are to the group of returns in item 1, column B, and so on.
- (6) Each numbered paragraph in group 1B, 2B or 3B is a “digital reporting sub-group” of returns, and references to returns in or belonging to a digital reporting sub-group of returns are to be read accordingly.
- (7) References to digital reporting sub-group (1) of group 1B are to the returns in paragraph (1) in item 1, column B, to digital reporting sub-group (2) of group 1B are to the returns in paragraph (2) in item 1, column B, and so on.

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- (8) Any reference to making a return includes a reference to filing, delivering or submitting a return.
- (9) “Due date”, in relation to a return, means the date by which it is required to be made.
- (10) A failure to make a return on or before the due date is treated as occurring on the day after the due date.
- (11) “HMRC” means Her Majesty's Revenue and Customs.

Commencement Information

I3 [Sch. 24 para. 3](#) in force at 1.1.2023 for specified purposes by [S.I. 2022/1278](#), [reg. 2\(1\)](#)

Application of Schedule to persons with multiple businesses etc

- 4 (1) Sub-paragraphs (2) to (4) apply for the interpretation of this Schedule where a person—
- (a) carries on more than one business, and
 - (b) in relation to two or more of those businesses (the “relevant businesses”), is required to make returns belonging to the same group of returns.
- (2) If the group of returns mentioned in sub-paragraph (1)(b) is group 1A, 2A, 3A, 4A, 4B or 4C, the person makes a single return belonging to that group for all of the relevant businesses and so there is a single group of returns of that description for those businesses.
- (3) If the group of returns mentioned in sub-paragraph (1)(b) is group 1B, 2B or 3B, there is a single group of returns of that description for all of the relevant businesses notwithstanding that the person makes separate returns belonging to that group for each of the relevant businesses.
- (4) Where there is a single group of returns of a particular description for two or more relevant businesses (see sub-paragraphs (2) and (3))—
- (a) the person has a single liability for points and penalties for those businesses;
 - (b) any change to the number of relevant businesses does not affect the continuity of the group of returns or the penalty points that the person has for the group of returns.
- (5) For the purposes of this Schedule, references to a person who carries on more than one business include references to a person who is treated as carrying on more than one business by section 43(1) of VATA 1994 (groups of companies).
- (6) If a body corporate carries on a business in several divisions and the registration of the body corporate under VATA 1994 is in the names of those divisions, such that the body corporate makes separate returns belonging to group 4A, 4B or 4C for each of those divisions—
- (a) there is a separate group of returns of that description for each division, and
 - (b) the body corporate has a separate liability for points and penalties for each division.
- (7) Accordingly, it follows from sub-paragraph (6) that where, in paragraph 5—

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- (a) a limit on a person's liability to penalty points for a group of returns is specified, the limit applies separately in relation to the group of returns of that description for each division, and
- (b) a maximum number of penalty points for a group of returns is specified, the maximum applies separately in relation to the group of returns of that description for each division.

Commencement Information

I4 Sch. 24 para. 4 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

PART 2

LIABILITY TO A PENALTY

Liability to penalty points

- 5 (1) If a person fails to make a return on or before the due date, the person is liable to one penalty point for the group of returns to which the return belongs (but see sub-paragraphs (2) to (8)).
- (2) A person is not liable to more than one penalty point per month for each of the following groups of returns, even if in that month there is more than one failure to make a return in that group on or before the due date—
- (a) group 1A, 2A or 3A;
 - (b) group 4A, 4B or 4C.
- (3) A person is not liable to more than one penalty point per month in respect of a failure to make a return in a digital reporting sub-group of returns, even if in that month there is more than one failure to make a return in that digital reporting sub-group on or before the due date.
- (4) For the purposes of sub-paragraph (3), digital reporting sub-groups (1) and (2) of group 1B or 2B are to be treated as a single digital reporting sub-group.
- (5) If—
- (a) a person carries on more than one business and in relation to two or more of those businesses is required to make returns belonging to digital reporting sub-group (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, and
 - (b) the due dates for the returns belonging to the digital reporting sub-group in question do not all fall within the same month of a calendar quarter,
- sub-paragraph (3) is to be read in relation to that digital reporting sub-group as if references to a month were references to a calendar quarter.
- (6) “Calendar quarter” means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October.
- (7) If there is more than one failure in a month or calendar quarter (as the case may be) to make a return in a group of returns, or in a digital reporting sub-group of returns, on or before the due date (see sub-paragraphs (2), (3) and (5)), the one penalty point for

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the month or calendar quarter to which the person is liable by virtue of this paragraph is for all of those failures.

- (8) A person is not liable to a penalty point for a group of returns if the person already has the maximum number of penalty points for that group of returns.
- (9) The maximum number of penalty points for a group of returns is—
 - (a) if the group is in Column A of the Table, 2 points,
 - (b) if the group is in Column B of the Table, 4 points, and
 - (c) if the group is in Column C of the Table, 5 points.
- (10) See paragraphs 19 to 21 for further rules about liability to a penalty point.

Commencement Information

I5 Sch. 24 para. 5 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Award of penalty points

- 6 (1) Where a person is liable to a penalty point for a group of returns, HMRC may award the person a penalty point for that group.
- (2) Where HMRC award a penalty point they must notify the person, and state in the notice—
 - (a) the failure (or failures) in respect of which the penalty point is awarded, and
 - (b) the group of returns for which the penalty point is awarded.
- (3) HMRC may not award a penalty point after—
 - (a) the later of date A and (where it applies) date B, or
 - (b) where the penalty point is to be awarded in respect of a failure (or failures) to make, on or before the due date, a return in digital reporting sub-group (3) or (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, the later of date A and (where it applies) date C.
- (4) Date A is the end of the period of x weeks beginning with—
 - (a) if the penalty point is to be awarded in respect of a single failure, the day on which the failure occurred;
 - (b) if the penalty point is to be awarded in respect of more than one failure in the same month or, as the case may be, the same calendar quarter (see paragraph 5(7)), the day on which the latest of those failures occurred.
- (5) In sub-paragraph (4) “x weeks” means—
 - (a) if the group of returns is in Column A of the Table, 48 weeks,
 - (b) if the group of returns is in Column B of the Table, 11 weeks, and
 - (c) if the group of returns is in Column C of the Table, 2 weeks.
- (6) Date B is the last day of the period of 12 months beginning with—
 - (a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the relevant return, or
 - (b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.
- (7) In sub-paragraph (6)(a)—

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- “appeal period” means the period during which—
- (a) an appeal could be brought (ignoring any possibility of an appeal out of time), or
 - (b) an appeal that has been brought has not been determined or withdrawn;
- “relevant return” means—
- (a) if the penalty point is to be awarded in respect of a single failure to make a return on or before the due date, that return;
 - (b) if the penalty point is to be awarded in respect of more than one failure to make a return, on or before the due date, in the same month or, as the case may be, the same calendar quarter (see paragraph 5(7)), the return for which there was the latest due date in the period in question.
- (8) If more than one return is the relevant return by virtue of paragraph (b) of the definition of “relevant return” in sub-paragraph (7) and the same day is not date B in relation to all of those returns, treat date B as being the latest of those days.
- (9) Date C—
- (a) applies where, on date A, it was not reasonable to expect HMRC to be aware that the person was required to make the return (or the returns), and
 - (b) is the last day of the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware that the person was required to make the return (or one of the returns).
- (10) For the purposes of this Schedule, a person “has” a penalty point if HMRC has awarded the person the penalty point, the penalty point or liability to it has not been cancelled and the penalty point has not expired.

Commencement Information

I6 Sch. 24 para. 6 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Expiry of individual penalty points

- 7 (1) A penalty point for a group of returns expires at the end of the relevant period, unless immediately before the end of that period the person has the maximum number of penalty points for that group of returns.
- (2) The relevant period is—
- (a) the period of 24 months beginning with the first day of the month after the month in which the failure or failures, in respect of which the point was awarded, occurred, or
 - (b) where paragraph 6(3)(b) applied to the award of the point and the point was awarded after date A and on or before date C, the period of 24 months beginning with the day after the day on which the point was awarded.
- (3) Where the penalty point was awarded in respect of more than one failure by virtue of paragraph 5(5), the references in sub-paragraph (2)(a) to a month are to be read as references to a calendar quarter.
- (4) In this paragraph—
- “calendar quarter” has the meaning given by paragraph 5(6);
- “date A” and “date C” have the meanings given by paragraph 6.

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Commencement Information

I7 Sch. 24 para. 7 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Expiry of all penalty points for a group of returns

- 8
- (1) Each of a person's penalty points for a group of returns expires at the beginning of the first day on which both condition A and condition B are met.
 - (2) Condition A is that the person has made each return in the group on or before its due date for the relevant length of time (or longer).
 - (3) The relevant length of time is x months beginning with the first day of the month after the month in which the most recent failure to make a return in the group on or before its due date occurred.
 - (4) In sub-paragraph (3) “x months” means—
 - (a) if the group of returns is in Column A of the Table, 24 months,
 - (b) if the group of returns is in Column B of the Table, 12 months, and
 - (c) if the group of returns is in Column C of the Table, 6 months.
 - (5) Condition B is met on any day if the person has made all the returns in the group whose due date fell in the period of 24 months ending with the previous day (whether or not those returns were made on or before their due date).
 - (6) Where each of a person's penalty points for a group of returns expires under this paragraph, HMRC must notify the person.

Commencement Information

I8 Sch. 24 para. 8 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Penalty points: effect of moving between groups of returns

- 9
- (1) Paragraphs 10 to 13 apply where, in relation to any item in the Table, a person—
 - (a) ceases to be required to make returns in a group of returns specified in relation to that item in one column of the Table (the “old” group of returns), and
 - (b) instead becomes required to make returns in a group of returns specified in relation to that item in another column of the Table (the “new” group of returns),(for example, where a person ceases to be required to make returns in group 1A and instead becomes required to make returns in group 1B).
 - (2) But where the returns in the old group of returns relate to a business or businesses carried on by the person, paragraphs 10 to 13 apply only if the returns in the new group of returns also relate to that business or all of those businesses.

Commencement Information

I9 Sch. 24 para. 9 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

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- 10 (1) This paragraph applies to determine the penalty points the person has for the new group of returns, on becoming required to make returns for the new group of returns.
- (2) If the person has no penalty points for the old group of returns, the person has no penalty points for the new group of returns.
- (3) If the person has penalty points for the old group of returns, the number of penalty points the person has for the new group of returns is determined by taking the number of penalty points the person has for the old group of returns and adjusting it in accordance with the table below.
- (4) If the adjustment gives a number of less than zero, treat the adjusted number of penalty points as zero.

<i>Column in which old group of returns falls</i>	<i>Column in which new group of returns falls</i>	<i>Adjustment</i>
Column A	Column B	Add 2 penalty points
	Column C	Add 3 penalty points
Column B	Column A	Deduct 2 penalty points
	Column C	Add 1 penalty point
Column C	Column A	Deduct 3 penalty points
	Column B	Deduct 1 penalty point

Commencement Information

I10 Sch. 24 para. 10 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

- 11 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than zero, but less than the actual number of penalty points for the old group of returns.
- (2) Treat the person as having, for the new group of returns, the penalty points which were awarded in respect of the x most recent relevant failures (but if a single penalty point was awarded in respect of more than one relevant failure, for the purposes of this sub-paragraph treat those relevant failures as a single relevant failure).
- (3) “X” is the adjusted number of penalty points for the new group of returns.
- (4) Treat the penalty points in respect of the other relevant failures as having expired (so that the person has no penalty points for the old group of returns).
- (5) In this paragraph “relevant failure” means a failure to make a return in the old group of returns on or before its due date, in respect of which a penalty point was awarded.

Commencement Information

I11 Sch. 24 para. 11 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

- 12 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than the actual number of penalty points for the old group of returns.

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- (2) Treat all the penalty points for the old group of returns as penalty points for the new group of returns.
- (3) Treat the additional penalty points as having been awarded in respect of relevant failures occurring on the same day as the most recent relevant failure.
- (4) For this purpose the additional penalty points are the penalty points added by way of adjustment to the actual number of penalty points for the old group of returns.
- (5) In this paragraph “relevant failure” means a failure to make a return in the old group of returns on or before its due date, in respect of which a penalty point was awarded.

Commencement Information

I12 Sch. 24 para. 12 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

- 13
- (1) Paragraph 8 applies in relation to the new group of returns with the following modifications.
 - (2) Sub-paragraph (3) applies as if for the words from “month in which” to the end there were substituted “ first month for all or part of which a return in the new group of returns is required to be made ”.
 - (3) The reference in sub-paragraph (5) to returns in the group includes returns in the old group of returns.

Commencement Information

I13 Sch. 24 para. 13 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Penalty points: effect of change of representative member of VAT group

- 14
- (1) This paragraph applies where—
 - (a) a person is replaced as the representative member of a group (“the former representative member”) by another member of the group (“the new representative member”) under section 43B of VATA 1994, and
 - (b) the former representative member has penalty points for the group of 4A, 4B or 4C returns for the businesses that were treated by section 43(1) of VATA 1994 as being carried on by the former representative member (and are now treated by that section as being carried on by the new representative member).
 - (2) Where this paragraph applies, treat the new representative member as having the penalty points that the former representative member has for the group of returns.

Commencement Information

I14 Sch. 24 para. 14 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

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Liability to penalties

- 15 (1) If a person fails to make a return on or before the due date and condition A or condition B is met, the person is liable to a penalty (but see sub-paragraphs (5) and (9)).
- (2) Condition A is that—
- (a) the person is awarded a penalty point in respect of the failure (including where the penalty point is awarded in respect of the failure and another failure or other failures), and
 - (b) on being awarded that penalty point, or on being awarded after that failure a penalty point in respect of an earlier failure (or earlier failures), the person has the maximum number of penalty points for the group of returns to which the return belongs.
- (3) Condition B is that the failure occurs on a day on which the person has the maximum number of penalty points for the group of returns to which the return belongs.
- (4) The amount of a penalty under this paragraph is £200.
- (5) A person is not liable to more than one penalty per month in respect of a failure to make a return in a digital reporting sub-group of returns, even if in that month there is more than one failure to make a return in that digital reporting sub-group on or before the due date.
- (6) For the purposes of sub-paragraph (5), digital reporting sub-groups (1) and (2) of group 1B or 2B are to be treated as a single digital reporting sub-group.
- (7) If—
- (a) a person carries on more than one business and in relation to two or more of those businesses is required to make returns belonging to digital reporting sub-group (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, and
 - (b) the due dates for the returns belonging to the digital reporting sub-group in question do not all fall within the same month of a calendar quarter,
- sub-paragraph (5) is to be read in relation to that digital reporting sub-group as if references to a month were references to a calendar quarter.
- (8) “Calendar quarter” means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October.
- (9) If there is more than one failure in a month or calendar quarter (as the case may be) to make a return in a digital reporting sub-group of returns on or before the due date (see sub-paragraphs (5) and (7)), the one penalty for the month or calendar quarter to which the person is liable by virtue of this paragraph is for all of those failures.
- (10) See paragraphs 19 to 21 for further rules about liability to a penalty.

Commencement Information

I15 Sch. 24 para. 15 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

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Assessments

- 16 (1) Where a person is liable to a penalty under this Schedule HMRC may assess the penalty.
- (2) Where HMRC assess a penalty they must—
- (a) notify the person, and
 - (b) state in the notice the failure (or, where paragraph 15(9) applies, the failures) for which the person is liable to a penalty.
- (3) Where a person is liable to a penalty because condition A in paragraph 15 is met, notice of an assessment of the penalty may not be issued before (but may be issued at the same time as) notice under paragraph 6 of the award of the penalty point as a result of which the person is liable to the penalty.
- (4) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- (5) An assessment of a penalty under this Schedule—
- (a) is to be treated for procedural purposes in the same way as an assessment to the tax concerned (except in respect of a matter expressly provided for in this Schedule),
 - (b) may be enforced as if it were an assessment to the tax concerned, and
 - (c) may be combined with an assessment to the tax concerned.

Commencement Information

I16 Sch. 24 para. 16 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Time limit for assessments

- 17 (1) An assessment of a penalty under this Schedule may not be made after—
- (a) the later of date A and (where it applies) date B, or
 - (b) where the penalty is to be assessed in respect of a failure (or failures) to make, on or before the due date, a return in digital reporting sub-group (3) or (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, the later of date A and (where it applies) date C.
- (But see sub-paragraphs (7) and (8).)
- (2) Date A is the end of the period of 2 years beginning with—
- (a) if the penalty is to be assessed in respect of a single failure, the day on which the failure occurred;
 - (b) if the penalty is to be assessed in respect of more than one failure in the same month or, as the case may be, the same calendar quarter (see paragraph 15(9)), the day on which the latest of the failures occurred.
- (3) Date B is the last day of the period of 12 months beginning with—
- (a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the relevant return, or
 - (b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.

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- (4) In sub-paragraph (3)(a)—
“appeal period” means the period during which—
- (a) an appeal could be brought (ignoring any possibility of an appeal out of time), or
 - (b) an appeal that has been brought has not been determined or withdrawn;
- “relevant return” means—
- (a) if the penalty is to be assessed in respect of a single failure to make a return on or before the due date, that return;
 - (b) if the penalty is to be assessed in respect of more than one failure to make a return, on or before the due date, in the same month or, as the case may be, the same calendar quarter (see paragraph 15(9)), the return for which there was the latest due date in the period in question.
- (5) If more than one return is the relevant return by virtue of paragraph (b) of the definition of “relevant return” in sub-paragraph (4) and the same day is not date B in relation to all of those returns, treat date B as being the latest of those days.
- (6) Date C—
- (a) applies where, on date A, it was not reasonable to expect HMRC to be aware that the person was required to make the return (or the returns), and
 - (b) is the last day of the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware that the person was required to make the return (or one of the returns).
- (7) Sub-paragraph (8) applies where—
- (a) a person is liable to a penalty in respect of a failure to make a return because condition A in paragraph 15 is met,
 - (b) that condition is only met because the person has the maximum number of penalty points for the group of returns to which the return belongs on being awarded after that failure a penalty point in respect of an earlier failure (or earlier failures), and
 - (c) when the penalty point is awarded in respect of the earlier failure (or earlier failures) an assessment of the penalty to which the person is liable may no longer be made because of sub-paragraph (1).
- (8) Where this sub-paragraph applies—
- (a) sub-paragraph (1) does not apply, and
 - (b) the assessment of the penalty may instead be made during the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware of the earlier failure (or one of the earlier failures).

Commencement Information

I17 Sch. 24 para. 17 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Power to amend figures by regulations

- 18 (1) The Commissioners for HMRC may by regulations—
- (a) amend paragraph 5(9) so as to increase or reduce the maximum number of penalty points for a group of returns;

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- (b) amend paragraph 8(4) so as to increase or reduce the number of months;
 - (c) amend paragraph 8(5) so as to increase or reduce the number of months;
 - (d) amend paragraph 15(4) so as to increase or reduce the amount of the penalty.
- (2) Regulations under sub-paragraph (1)(a) may also amend column 3 of the table in paragraph 10.
- (3) Regulations under this paragraph—
- (a) are to be made by statutory instrument;
 - (b) may include transitional, transitory and saving provision.
- (4) A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Commencement Information

I18 Sch. 24 para. 18 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

PART 3

SUPPLEMENTARY PROVISION

Reasonable excuse

- 19 (1) Liability to a penalty point or a penalty under this Schedule does not arise in respect of a failure to make a return if the person satisfies HMRC (or on appeal, the tribunal) that the person had a reasonable excuse for the failure.
- (2) For this purpose—
- (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, and
 - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.
- (3) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 23(1)).

Commencement Information

I19 Sch. 24 para. 19 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Double jeopardy

- 20 A person is not liable to a penalty point or a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

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Commencement Information

I20 Sch. 24 para. 20 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Withdrawal of notice to make a return

- 21 (1) This paragraph applies where—
- (a) a person is liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 1A or 1B, and
 - (b) HMRC decide (on the request of the person or otherwise) to give the person a notice under section 8B of TMA 1970 withdrawing a notice under section 8 of that Act.
- (2) This paragraph also applies where—
- (a) the trustees of a settlement are, as a deemed single person (see paragraph 26), liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 2A or 2B, and
 - (b) HMRC decide (on the request of a trustee of the settlement or otherwise) to give a trustee of the settlement a notice under section 8B of TMA 1970 withdrawing a notice under section 8A of that Act.
- (3) This paragraph also applies where—
- (a) the partners in a partnership are, as a deemed single person (see paragraph 25), liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 3A, and
 - (b) HMRC decide, on a request by a partner in the partnership under section 12AAA of TMA 1970, to give a notice under that section withdrawing a notice under section 12AA of that Act.
- (4) The notice under section 8B or 12AAA of TMA 1970 may include provision cancelling liability to the penalty point or the penalty.

Commencement Information

I21 Sch. 24 para. 21 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Appeals

- 22 A person may appeal against a decision of HMRC under this Schedule—
- (a) that the person is liable to a penalty point, or
 - (b) that a penalty is payable by the person.

Commencement Information

I22 Sch. 24 para. 22 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

- 23 (1) An appeal under paragraph 22 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision

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about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

- (2) Sub-paragraph (1) does not apply—
- (a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or
 - (b) in respect of any other matter expressly provided for by this Schedule.

Commencement Information

I23 Sch. 24 para. 23 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

- 24 (1) On an appeal under paragraph 22 that is notified to the tribunal, the tribunal may—
- (a) where the appeal is under paragraph 22(a), affirm or cancel HMRC's decision that the person is liable to the penalty point;
 - (b) where the appeal is under paragraph 22(b), affirm or cancel HMRC's decision that the penalty is payable by the person.
- (2) Where the appeal is under paragraph 22(b), the tribunal may also affirm or cancel HMRC's decision that the person was liable to any of the penalty points by virtue of which the person was liable to the penalty.
- (3) Sub-paragraph (2)—
- (a) applies in relation to a penalty point even if the time limit for appealing against it expired before the appeal under paragraph 22(b) was brought;
 - (b) does not apply in relation to a penalty point if HMRC's decision that the person was liable to the penalty point was affirmed on an earlier appeal.
- (4) Sub-paragraph (5) applies if—
- (a) on an appeal under paragraph 22(b), the tribunal—
 - (i) cancels a decision that a penalty is payable by a person, and
 - (ii) cancels a decision that the person was liable to a penalty point, for a group of returns, by virtue of which the person was liable to the penalty,
 - (b) after the penalty point mentioned in paragraph (a)(ii) was given by HMRC and before the decision mentioned in that paragraph was cancelled, the person failed to make a return in the same group on or before the due date, and
 - (c) at the time the failure occurred, the person already had the maximum number of penalty points for that group of returns (see paragraph 5(8)).
- (5) HMRC may award a penalty point in respect of the failure before the end of the period of 12 months beginning with the day after the tribunal's decision on the appeal (and paragraph 6(3) does not apply).
- (6) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 23(1)).

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Modifications etc. (not altering text)

- C1** Sch. 24 para. 24(4)(5) applied (with modifications) (1.1.2023 for specified purposes) by 1994 c. 23, s. 83FB (as inserted by Finance Act 2021 (c. 26), s. 118(2), Sch. 27 para. 26; S.I. 2022/1278, reg. 2(3)(4)(a))

Commencement Information

- I24** Sch. 24 para. 24 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Partnerships

- 25 (1) For the purposes of this Schedule—
- (a) the partners in a partnership are together to be treated as if they were a single person (distinct from the persons who are partners in the partnership);
 - (b) a failure by one or more partners in the partnership to make a return on or before the due date is to be treated as a failure by the deemed single person referred to in paragraph (a);
 - (c) other things done by or in relation to a partner in the partnership are also to be treated as done by or in relation to that deemed single person.
- (2) The deemed single person referred to in paragraph (a) is to be treated as continuing in existence even if there is a change in the partnership.
- (3) Where the deemed single person referred to in paragraph (a) is assessed to a penalty, every relevant partner is jointly and severally liable for the penalty.
- (4) For the purposes of sub-paragraph (3)—
- (a) “relevant partner” means a person who is a partner in the partnership on the day on which the penalty is assessed;
 - (b) a person is a relevant partner even if the person was not a partner in the partnership when liability was incurred to one or more of the penalty points by virtue of which liability to the penalty arose;
 - (c) the relevant partners are jointly and severally liable for the penalty even if none of them were partners in the partnership when liability was incurred to the penalty points by virtue of which liability to the penalty arose.

Commencement Information

- I25** Sch. 24 para. 25 in force at 1.1.2023 for specified purposes by S.I. 2022/1278, reg. 2(1)

Settlements

- 26 (1) For the purposes of this Schedule—
- (a) the trustees of a settlement are together to be treated as if they were a single person (distinct from the persons who are trustees of the settlement);
 - (b) a failure by one or more trustees of the settlement to make a return on or before the due date is to be treated as a failure by the deemed single person referred to in paragraph (a);
 - (c) other things done by or in relation to a trustee of the settlement are also to be treated as done by or in relation to that deemed single person.

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- (2) The deemed single person referred to in paragraph (a) is to be treated as continuing in existence even if there is a change in the trustees of the settlement.
- (3) Where the deemed single person referred to in paragraph (a) is assessed to a penalty, every relevant trustee is jointly and severally liable for the penalty.
- (4) For the purposes of sub-paragraph (3)—
 - (a) “relevant trustee” means a person who is a trustee of the settlement on the day on which the penalty is assessed;
 - (b) a person is a relevant trustee even if the person was not a trustee of the settlement when liability was incurred to one or more of the penalty points by virtue of which liability to the penalty arose;
 - (c) the relevant trustees are jointly and severally liable for the penalty even if none of them were trustees of the settlement when liability was incurred to the penalty points by virtue of which liability to the penalty arose.

Commencement Information

I26 [Sch. 24 para. 26](#) in force at 1.1.2023 for specified purposes by [S.I. 2022/1278](#), [reg. 2\(1\)](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 24 para. 24(4)(5) applied (with modifications) by 1970 c. 9, s. 49FA(1) (as inserted) by [2021 c. 26 Sch. 27 para. 6](#)
- Sch. 24 para. 1 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 2 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 3 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 4 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 5 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 6 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 7 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 8 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 9 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 10 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 11 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 12 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 13 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 14 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 15 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 16 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 17 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 18 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 19 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 20 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 21 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 22 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 23 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 24 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 25 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)
- Sch. 24 para. 26 coming into force by [S.I. 2024/440 reg. 2\(1\)](#)

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):

- Sch. 21 para. 11(3)(aa) inserted (cond.) by [2021 c. 26 Sch. 21 para. 11\(5\)\(b\)](#)