



Finance Act 2021

2021 CHAPTER 26

PART 4

MISCELLANEOUS AND FINAL

HMRC powers

126 Financial institution notices

- (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) After paragraph 4 insert—

4A “Power to obtain information and documents from financial institutions

- (1) An officer of Revenue and Customs may by notice in writing require a financial institution—
 - (a) to provide information, or
 - (b) to produce a document,if conditions A and B are met.
- (2) Condition A is that the information or document is, in the reasonable opinion of the officer giving the notice, of a kind that it would not be onerous for the institution to provide or produce.
- (3) Condition B is that the information or document is reasonably required by the officer—
 - (a) for the purpose of checking the tax position of another person whose identity is known to the officer (“the taxpayer”), or
 - (b) for the purpose of collecting a tax debt of the taxpayer.
- (4) In this Schedule, “financial institution notice” means a notice under this paragraph.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, Cross Heading: HMRC powers. (See end of Document for details)

- (5) A financial institution notice may be given by an officer of Revenue and Customs only if—
 - (a) the officer is an authorised officer of Revenue and Customs, or
 - (b) an authorised officer of Revenue and Customs has agreed to the giving of the notice.
- (6) A financial institution notice must name the taxpayer to whom it relates.
- (7) An officer of Revenue and Customs—
 - (a) must give a copy of a financial institution notice to the taxpayer to whom it relates, and
 - (b) must give the taxpayer a summary of the reasons why an officer of Revenue and Customs requires the information and documents.
- (8) An application (without notice) may be made to the tribunal by, or with the agreement of, an authorised officer of Revenue and Customs to disapply any of the requirements under sub-paragraph (6) or (7).
- (9) The tribunal must grant the application to disapply the requirement under sub-paragraph (6) if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.
- (10) The tribunal must grant the application to disapply a requirement under sub-paragraph (7) if it is satisfied that complying with the requirement might prejudice the assessment or collection of tax.”
- (3) In paragraph 6 (notices)—
 - (a) in sub-paragraph (1), after “2,” insert “ 4A, ”;
 - (b) in sub-paragraph (4), after “4” insert “ , 4A ”.
- (4) After paragraph 61 insert—

61ZA “Financial institution

- (1) In this Schedule “financial institution” means—
 - (a) a financial institution under the CRS other than one which is such an institution because (and only because) it is an investment entity within section VIII (A)(6)(b) of the CRS, or
 - (b) a person who issues credit cards.
- (2) In this paragraph “the CRS” means the common reporting standard for automatic exchange of financial account information developed by the Organisation for Economic Co-operation and Development, as that standard has effect from time to time.”
- (5) As soon as reasonably practicable after the end of each financial year, the Commissioners for Her Majesty's Revenue and Customs must provide the Treasury with—
 - (a) information about the number of financial institution notices given during that financial year, and
 - (b) such other information (if any) relating to financial institution notices as the Treasury may reasonably require.

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- (6) Information received under subsection (5) must be included in a report laid before the House of Commons by the Treasury.
- (7) The report mentioned in subsection (6) must be laid not later than 31 January following the end of the financial year to which the information relates.
- (8) For the purposes of subsections (5) to (7)—
 - “financial institution notice” means a notice under paragraph 4A of Schedule 36 to FA 2008;
 - each of the following is a “financial year”—
 - (a) the period beginning with the date on which this Schedule comes into force and ending with 31 March 2022, and
 - (b) each successive period of 12 months.
- (9) The amendments made by subsections (2) to (4) have effect—
 - (a) for the purpose of checking the tax position of a taxpayer as regards periods or tax liabilities whenever arising, or
 - (b) for the purpose of collecting a tax debt of a taxpayer whenever arising.

127 Collection of tax debts

- (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) In paragraph 1(1) (taxpayer notices), at the end insert “ or for the purpose of collecting a tax debt of the taxpayer ”.
- (3) In paragraph 2(1) (third party notices), at the end insert “ or for the purpose of collecting a tax debt of the taxpayer ”.
- (4) In paragraph 5(2) (persons whose identities are not known), after “tax position of” insert “ or for the purpose of collecting a tax debt of ”.
- (5) In paragraph 5A (persons whose identity can be ascertained)—
 - (a) in sub-paragraph (2), at the end insert “ or for the purpose of collecting a tax debt of the taxpayer ”, and
 - (b) in sub-paragraph (7), after “tax position of”, in both places, insert “ , or for the purpose of collecting a tax debt of, ”.
- (6) After paragraph 63 insert—

63A “Tax debts: collection

- (1) In this Schedule a reference to collecting a tax debt of a person is a reference to taking any steps for, or in connection with, the recovery of—
 - (a) an amount of tax due from the person, or
 - (b) any other amount due from the person in connection with any tax.
- (2) It does not matter whether or not another person is, or has been, at any time liable to pay the tax or other amount.”
- (7) After paragraph 63A (inserted by subsection (6)) insert—

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63B “Tax debts: extended meaning of “relevant foreign tax”

Where this Schedule applies for the purpose of collecting a tax debt of a person, “relevant foreign tax” is to be taken to include (in addition to what is mentioned in paragraph 63(4)) any tax or duty which is covered by the provisions for the exchange of information under Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (as it had effect immediately before IP completion day).”

- (8) The amendments made by this section have effect for the purpose of collecting a tax debt of a person whenever arising.

128 Miscellaneous amendments of Schedule 36 to FA 2008

Schedule 34 makes miscellaneous amendments of Schedule 36 to FA 2008 (information and inspection powers).

F1 129 International arrangements for exchanging information on the gig economy

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Textual Amendments

F1 S. 129 repealed (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 349(11)(d)

130 Unauthorised removal or disposal of seized goods

- (1) In Schedule 3 to CEMA 1979 (provisions relating to forfeiture), after paragraph 17 insert—

“Unauthorised removal or disposal: penalties etc

- 18 (1) This paragraph applies where a thing is seized as liable to forfeiture and, with the agreement of a person within sub-paragraph (2) (“the responsible person”), the thing remains at the place where it is first seized.
- (2) A person is within this sub-paragraph if the person is—
- (a) the person whose offence or suspected offence occasioned the seizure,
 - (b) the owner or any of the owners of the thing seized or any servant or agent of such an owner,
 - (c) a person who has (or appears to have) possession or control over the thing being seized,
 - (d) in the case of any thing seized on a ship or aircraft, the master or commander,
 - (e) in the case of any thing seized on any other vehicle, the vehicle operator, or
 - (f) a person whom the person who seizes the thing reasonably believes to be a person within any of paragraphs (a) to (e).

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- (3) Where the thing is deemed to be seized as liable to forfeiture under paragraph 2(3) of Schedule 2A—
 - (a) the offence or suspected offence that occasioned its detention is to be treated, for the purpose of sub-paragraph (2)(a), as having occasioned its seizure, and
 - (b) sub-paragraph (2)(f) has effect as if the reference to the person who seizes the thing were a reference to any officer of Revenue and Customs.
 - (4) If the responsible person fails to prevent the unauthorised removal or disposal of the thing from the place where it is seized, that failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).
 - (5) The removal or disposal of the thing is unauthorised unless it is done with the permission of a proper officer of Revenue and Customs.
 - (6) Where any duty of excise is payable in respect of the thing—
 - (a) the penalty is to be calculated by reference to the amount of that duty (whether it has been paid or not), and
 - (b) section 9 of the Finance Act 1994 has effect as if in subsection (2)(a) the words “5 per cent of” were omitted.
 - (7) If no duty of excise is payable in respect of the thing, that section has effect as if the penalty provided for by subsection (2)(b) of that section were whichever is the greater of—
 - (a) the value of the thing at the time when it was first seized, or
 - (b) £250.
- 19 (1) This paragraph applies where—
 - (a) a thing is seized at a revenue trader's premises,
 - (b) the thing is liable to forfeiture under the customs and excise Acts, and
 - (c) without the permission of a proper officer of Revenue and Customs, the thing is removed from the trader's premises, or otherwise disposed of, by any person.
- (2) The Commissioners may seize as liable to forfeiture goods of equivalent value to the thing from the revenue trader's stock.
- (3) For the purposes of this paragraph, a revenue trader's premises include any premises used to hold or store anything for the purposes of the revenue trader's trade, regardless of who owns or occupies the premises.”
- (2) The amendments made by this section have effect in relation to a thing seized as liable to forfeiture on or after the day on which this Act is passed.

131 Temporary approvals etc pending review or appeal

- (1) In Chapter 2 of Part 1 of FA 1994 (customs and excise: appeals and penalties), after section 16 insert—

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“16A Temporary approvals etc pending review or appeal: eligibility

- (1) Section 16B applies where HMRC notify P of an approval decision and—
 - (a) HMRC are required to review the decision under section 15C or 15E, or
 - (b) the decision, or the decision on a review under that section, has been appealed to an appeal tribunal under section 16.
- (2) An approval decision is a decision as to whether or not, and in which respects, any person or place (as the case may be) is to be or is to continue to be—
 - (a) approved under section 92 of CEMA 1979 (warehousekeepers and owners of warehouses goods regime: approval of excise warehouses);
 - (b) approved and registered under section 100G of CEMA 1979 by virtue of—
 - (i) regulation 3 of the Warehousekeepers and Owners of Warehoused Goods Regulations 1999 (S.I. 1999/1278) (authorized warehousekeepers);
 - (ii) regulation 5 of those Regulations (registered owners);
 - (iii) regulation 6 of those Regulations (duty representatives);
 - (iv) regulation 4 of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002 (S.I. 2002/3057) (registered dealers in controlled oil);
 - (c) approved and registered to carry on a controlled activity under section 88C ALDA 1979 (alcohol wholesalers registration scheme);
 - (d) approved to carry on a controlled activity under section 8L of TPDA 1979 (raw tobacco scheme);
 - (e) approved and registered under section 49 F(No.2)A 2017 (fulfilment houses due diligence scheme);
 - (f) licensed to carry out a regulated activity under the Tobacco Products Manufacturing Machinery (Licensing Scheme) Regulations 2018 (S.I. 2018/75) (tobacco machinery scheme).
- (3) The Commissioners may by regulations made by statutory instrument amend subsection (2) so as to add, vary or remove a paragraph of that subsection.
- (4) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.

16B Temporary approvals etc pending review or appeal: process

- (1) On an application by P, HMRC may grant temporary approval if they are satisfied that—
 - (a) P has demonstrated that if temporary approval were not granted the review or appeal in respect of the approval decision, or the appeal from a decision on review of that decision, would be rendered nugatory by virtue of P being unable to continue as a going concern or otherwise, and
 - (b) it is appropriate in all the circumstances to grant temporary approval (despite the approval decision).

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- (2) In determining whether it would be appropriate to grant temporary approval, HMRC must have regard to—
 - (a) the prospect of the review or appeal in respect of the approval decision, or appeal from a decision on review of that decision, being determined in P's favour;
 - (b) any alternative steps available to, and taken by, P to protect P's position pending the final determination of the review or appeal;
 - (c) whether P has acted expeditiously in requiring the review or in bringing and progressing the appeal.
- (3) Subject to any provision made in regulations under section 16C, temporary approval has effect as an approval, registration or licence (as the case may be) under the relevant provision listed in section 16A(2) that—
 - (a) commences on the day on which the application for temporary approval is granted,
 - (b) expires on the day determined in accordance with subsection (4), and
 - (c) is subject to any conditions or restrictions imposed on the temporary approval.
- (4) The day on which a temporary approval expires is—
 - (a) in a case where the approval decision is cancelled on a review, the day on which it is cancelled;
 - (b) in a case where the approval decision is upheld on a review, the last day on which an appeal could be brought against that decision (ignoring any possibility of an appeal brought out of time with permission), unless paragraph (4)(c) applies;
 - (c) in a case where an appeal (other than an appeal brought out of time with permission) is brought in respect of an approval decision or a decision on a review of that decision, the day on which the appeal is finally determined.
- (5) HMRC may revoke a temporary approval, or vary the conditions or restrictions to which it is subject, if they are satisfied that a change in circumstances justifies doing so.
- (6) HMRC may by notice published in such form as HMRC considers appropriate make provision about the timing, form, content and determination of applications under subsection (1).
- (7) Subsection (8) applies if HMRC—
 - (a) refuse an application under subsection (1),
 - (b) grant an application under that subsection subject to conditions or restrictions,
 - (c) vary the conditions or restrictions to which a temporary approval is subject, or
 - (d) revoke a temporary approval, andthe approval decision, or the decision on a review of that decision under section 15C or 15E, has been appealed to an appeal tribunal under section 16.
- (8) If, on an application by P, the appeal tribunal decides that HMRC should not have (as the case may be)—
 - (a) refused the application,

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- (b) granted the application subject to particular conditions or restrictions,
 - (c) varied the conditions or restrictions to which the temporary approval is subject, or
 - (d) revoked the temporary approval,
- the appeal tribunal may order HMRC to make any decision that it would have been open to HMRC to make under this section.
- (9) If the appeal tribunal makes an order under subsection (8), HMRC or P may apply to the appeal tribunal to vary or revoke that order.
 - (10) HMRC must notify P of any decision to grant or revoke a temporary approval or to vary the conditions or restrictions to which such approval is subject.

16C Temporary approvals etc pending review or appeal: modifications

- (1) The Commissioners may by regulations make such provision as they consider appropriate in consequence of provision made in sections 16A and 16B (including by virtue of regulations under section 16A(3)).
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify any enactment.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section which amend, repeal or modify the application of an Act of Parliament must be laid before the House of Commons after being made and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) The fact that a statutory instrument ceases to have effect as a result of subsection (4) does not affect—
 - (a) anything previously done under the instrument, or
 - (b) the making of a new instrument.
- (7) In calculating the period of 28 days mentioned in subsection (4), no account is to be taken of any time—
 - (a) during which Parliament is dissolved or prorogued, or
 - (b) during which the House of Commons is adjourned for more than four days.
- (8) In this section “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.”
- (2) In section 16A(1) of FA 1994 (inserted by subsection (1) of this section), the reference to HMRC notifying P of an approval decision includes a reference to HMRC having notified P of such a decision before the coming into force of this section.
- (3) This section comes into force on such day as the Commissioners may by regulations made by statutory instrument appoint.

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Commencement Information

II [S. 131](#) in force at 5.7.2021 by [S.I. 2021/799](#), **reg. 2**

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