

2011 No. xxx (C. xx)

INCOME TAX

**The Finance Act 2009, Schedule 55 (Appointed Day and
Consequential Provisions) Order 2011**

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Treasury makes the following Order in exercise of the powers conferred by section 106 of the Finance Act 2009(a):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Finance Act 2009, Schedule 55 (Appointed Day and Consequential Provisions) Order 2011 and shall come into force on 1st April 2011.

(2) In this Order “return period” means each period of three months ending with 31st March, 30th June, 30th September or 31st December as provided for in section 254(2) of the Finance Act 2004 (pension schemes; accounting for tax)(b).

Appointed day

2. In relation to returns under section 254 of the Finance Act 2004 to be made in respect of a return period ending on or after 31st March 2011, the day appointed for the coming into force of Schedule 55 to the Finance Act 2009(c) is 1st April 2011.

Repeals and revocations

3. The following are omitted—

- (a) subsections (1) to (5) of section 260 of Finance Act 2004,
- (b) the words “or section 260(1)(b) of the Finance Act 2004” in section 100(6)(a) of the Taxes Management Act 1970(d) (excessive penalty), and
- (c) the words “(1), (4) and” in the fifteenth entry in the table in Part 1 of Schedule 3 to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006(e) (responsibilities

(a) 2009 c.10.
(b) 2004 c. 12.
(c) Schedule 55 is to be amended by paragraphs 10 to 14 of Schedule 10 to the Finance Act 2010 (c. 13). These amendments are not yet in force.
(d) Section 100 was substituted by section 167 of the Finance Act 1989 (c.26). Subsection (6)(a) was amended by paragraph 38 of Schedule 19 to the Finance Act 1998 (c.36), section 91(1) of the Finance Act 2001 (c.9) and section 260(5) and Part 3 of Schedule 42 to Finance Act 2004.
(e) S.I. 2006/569.

and liabilities of sub-scheme administrators in respect of a sub-scheme – Finance Act 2004).

Savings

4. Article 3 does not apply in respect of a return period ending on or before 31st December 2010.

Consequential amendments

5. In regulation 2(4)(a) of the Pension Benefits (Insurance Company Liable as Scheme Administrator) Regulations 2006(a), for the words “section 260(1) (accounting return)” substitute “Schedule 55 to the Finance Act 2009 (penalty for failure to make returns)”.

6. In Schedule 3 to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006—

- (a) for the words “Penalties for failure to make a return within S254” in the fifteenth entry in the table in Part 1 substitute “Penalty for fraudulently or negligently making an incorrect return under S254”, and
- (b) after Part 1 insert the following—

“PART 1A

Other legislation

Schedule 55 to the Finance Act 2009 (penalty for failure to make returns)”.

7. In the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006(b), in the last paragraph of Schedule 2,

- (a) in sub-paragraph (d) for “(failure to deliver accounting return)” substitute “(fraudulently or negligently making an accounting return)”, and
- (b) at the end of sub-paragraph (j) insert the following —
“; or
- (k) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns)”.

Date Name
Name
Two of the Lords Commissioners for Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st April 2011 as the day on which the penalty regime for failure to make returns set out in Schedule 55 to the Finance Act 2009 comes into force in respect of pension scheme returns. Section 254 of the Finance Act 2004 (“section 254”) requires a scheme administrator of a registered pension scheme to make returns to HMRC of the income tax to which the scheme administrator is liable.

(a) S.I. 2006/136.
(b) S.I. 2006/570

Article 2 provides that the appointed day in relation to returns to be made under section 254 in respect of a return period ending on or after 31st March 2011 is 1st April 2011. Article 1 defines “return period” with reference to the periods of three months as set out in section 254(2).

Article 3 provides for the repeal of section 260(1) to (5) of the Finance Act 2004. It also provides for the omission of the references to those subsections in section 100(6)(a) of the Taxes Management Act 1970 and in Schedule 3 to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569).

Article 4 provides that article 3 does not apply in respect of a return period ending on or before 31st December 2010. This means that section 260 will continue to apply to existing penalties.

Article 5 provides for amendments to the Pension Benefits (Insurance Company Liable as Scheme Administrator) Regulations 2005, article 6 provides for amendments to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006 and article 7 provides for amendments to the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006, each in consequence of Schedule 55 to the Finance Act 2009.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector was published on 14th April 2009 and is entitled “Working towards a harmonised regime for interest and meeting the obligations to file returns and pay tax on time”. It is available from the HMRC website at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.