

2009 No. xxx (C. xx)

REVENUE AND CUSTOMS

The Finance Act 2008, Schedule 41 [(Appointed Day, Savings and Transitional Provision)] Order 2009

Made - - - - *xxx 2009*

Laid before the House of Commons

Coming into force

The Treasury make the following Order in exercise of the powers conferred by section 123 of the Finance Act 2008(a):

Citation and interpretation

1.—(1) This Order may be cited as the Finance Act 2008, Schedule 41 [(Appointed Day, Savings and Transitional Provision)] Order 2009.

(2) In this Order “Schedule 41” means Schedule 41 to the Finance Act 2008 and a reference to a paragraph (without more) is a reference to that paragraph of Schedule 41.

(3) In this Order—

“relevant obligation” means an obligation specified in the Table in paragraph 1;

“relevant excise provision” has the meaning given in paragraph 3(1);

“unauthorised issue of an invoice” has the meaning given in paragraph 2(2).

Appointed day

2. The day appointed for the coming into force of Schedule 41 is 1st April 2010—

- (a) where a relevant obligation arises on or after that date;
- (b) where an unauthorised issue of an invoice takes place on or after that date;
- (c) where an act which enables HMRC to assess an amount as duty under a relevant excise provision is performed on or after that date; and
- (d) where a person’s actions giving rise to a penalty under paragraph 4 (handling goods subject to unpaid excise duty) arise on or after that date.

Savings

3. Notwithstanding paragraph 25 (consequential repeals), the following provisions shall continue to have effect with respect to conduct involving dishonesty which does not give rise to a penalty under Schedule 41—

- (a) sections 60 and 61 of the Value Added Tax Act 1994(a) (VAT evasion) ;

(a) 2008 c. 9.

- (b) in FA 1994—
 - (i) section 8 (penalty for evasion of excise duty), and
 - (ii) paragraphs 12 and 13 of Schedule 7 (insurance premium tax: civil penalties);
- (c) paragraphs 18 and 19 of Schedule 5 to FA 1996 (landfill tax: civil penalties: evasion and misdeclaration or neglect);
- (d) paragraphs 98 and 99 of Schedule 6 to FA 2000 (climate change levy: civil penalties: evasion, liability of directors and misdeclaration or neglect);
- (e) in Schedule 6 to FA 2001—
 - (i) paragraphs 7 and 8 (aggregates levy: civil penalties: evasion, liability of directors and misdeclaration or neglect), and
 - (ii) paragraph 9A(5)(b) (penalty under paragraph 7 above);and
- (f) section 133(2) to (4) of FA 2002 (aggregates levy: amendments to provisions about civil penalties).

Transitional provision

4. Notwithstanding article 2, a person shall not be liable to a penalty under Schedule 41 in respect of any tax period in respect of which a relevant obligation arises before 1st April 2010.

	<i>Name</i>
	<i>Name</i>
March 2009	Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of Schedule 41 to the Finance Act 2008 (c. 9) (“Schedule 41”). It also contains savings and transitional provisions. Schedule 41 introduced a single penalty regime for failure to comply with a relevant obligation to notify HMRC of chargeability to tax, liability to register for tax etc., as well as penalties for issuing an unauthorised VAT invoice, putting a product to a use that attracts a higher rate of excise duty, and handling goods subject to unpaid excise duty.

Article 2 brings Schedule 41 into force on 1 April 2010, where the relevant obligation, issue of unauthorised invoice, or other culpable actions arise on or after that date.

Article 3 preserves the existing penalty provisions for evasion within the stated regimes where the dishonest conduct does not give rise to a penalty under Schedule 41.

Article 4 provides that Schedule 41 shall not apply in relation to any tax period in respect of which a relevant obligation arises before 1 April 2010.

(a) 1994 c. 23.