STATUTORY INSTRUMENTS

2009 No. 404 (C. 25)

REVENUE AND CUSTOMS

SOCIAL SECURITY

TAX CREDITS

The Finance Act 2008, Schedule 36 (Appointed Day and Savings) Order 2009

Made - - - - 26th February 2009

The Treasury make the following Order in exercise of the powers conferred by section 113(2) and (3) of the Finance Act 2008(**a**).

Citation and interpretation

1.—(1) This Order may be cited as the Finance Act 2008, Schedule 36 (Appointed Day and Savings) Order 2009.

(2) In this Order a reference to a paragraph (without more) is a reference to that paragraph of Schedule 36 to the Finance Act 2008.

Appointed day

2. The day appointed for the coming into force of Schedule 36 to the Finance Act 2008 is 1st April 2009.

Savings

3. Where a notice is given under section 19A of the Taxes Management Act 1970(**b**) ("TMA 1970") (power to call for documents for purposes of enquiries) on or before 31st March 2009, for the purposes of that notice—

(a) the provisions contained in that section and in section 97AA of TMA 1970(**c**) (penalties for failure to produce documents under section 19A) shall continue to have effect on and after 1st April 2009;

(b) the amendments made by paragraphs 71 and 75 (consequential amendments) shall be disregarded.

(**a**) 2008 c. 9.

(**b**) 1970 c. 9; section 19A was inserted by section 187 of the Finance Act 1994 (c. 9), and amended by paragraph 3(1), (2) and (3) of Schedule 19 and paragraph 2 of Schedule 22 to the Finance Act 1996 (c. 8) and by paragraph 21 of Schedule 29 to the Finance Act 2001 (c. 9).

(**c**) Section 97AA was inserted by paragraph 29 of Schedule 19 to the Finance Act 1994, and amended by paragraph 3(4) of Schedule 19 to the Finance Act 1996 and paragraph 36 of Schedule 19 to the Finance Act 1998 (c. 36).

4. Where a notice is given under section 20 of TMA 1970(**a**) (power to call for documents of taxpayer and others) on or before 31st March 2009, for the purposes of that notice—

(a) the provisions contained in that section and in section 20BB of TMA 1970(**b**) (offence of falsification etc. of documents) shall continue to have effect on and after 1st April 2009;

(b) the amendments made by paragraphs 68, 70 and 76 (consequential amendments) shall be disregarded.

5. Where a notice is given under paragraph 6 of Schedule 1A to TMA 1970(**c**) (power to call for documents for the purposes of enquiries) on or before 31st March 2009, for the purposes of that notice—

(a) the provisions contained in paragraphs 6 and 6A(**d**) (power to appeal against notice to produce documents) of that Schedule shall continue to have effect on and after 1st April 2009;

(b) the amendments made by paragraphs 72 and 75 (consequential amendments) shall be disregarded.

6. Where a notice is given under section 767C of the Income and Corporation Taxes Act(**e**) (change in company ownership: information) on or before 31st March 2009, for the purposes of that notice—

(a) the provisions contained in that section shall continue to have effect on and after 1st April 2009;

(b) the amendments made by paragraph 73(a), 80, 81 and 82 (consequential amendments) shall be disregarded.

7. Where a notice is given under paragraph 27 of Schedule 18 to the Finance Act 1998(**f**) (company tax returns) on or before 31st March 2009, the provisions contained in paragraphs 27, 28 and 29 of that Schedule (notice to produce documents etc. for purposes of enquiry into company tax return, power to appeal against such notices and penalty for failure to produce such documents etc.) shall continue to have effect on and after 1st April 2009 for the purposes of that notice.

8. Where a notice is given for the purposes of regulation 5 (amendment of syndicate determinations and HMRC enquiries) of the Lloyd's Underwriters (Tax) Regulations 2005(**g**) on or before 31st March 2009, the provisions of paragraphs 27 to 29 of Schedule 18 to the Finance Act 1998(**h**) shall continue to have effect on and after 1st April 2009, with appropriate modification, for the purposes of that regulation.

9. In relation to a notice given on or before 31st March 2009, for the purposes of the application of section 20 of TMA 1970 (with sections 20B(**i**) and 20BB of that Act) to—

(a) section 110ZA of the Social Security Administration Act 1992(**j**) (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc),

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(**a**) Sections 20 to 20D were substituted for section 20 by Schedule 6 to the Finance Act 1976 (c. 40), and section 20 was amended by section 126(2) and (3) of the Finance Act 1988 (c. 39), section 142(1) to (8) of the Finance Act 1989 (c. 26), section 93 of the Finance Act 1990 (c. 29) and section 255 of the Finance Act 1994.

(**b**) Section 20BB was inserted by section 145 of the Finance Act 1989 and amended by section 149(3) of the Finance Act 2000 (c. 17).

(**c**) Schedule 1A was inserted by paragraph 35 of Schedule 19 to the Finance Act 1994, and paragraph 6 was amended by paragraph 42(6) of Schedule 19 to the Finance Act 1998.

(**d**) Paragraph 6A of Schedule 1A was inserted by paragraph 42(7) of Schedule 19 to the Finance Act 1998.

(**e**) Section 767C was inserted by section 115(1) of the Finance Act 1998.

(**f**) 1998 c. 36; paragraph 27 of Schedule 18 was amended by paragraph 38(4) of Schedule 29 to the Finance Act 2001.

(**g**) S.I. 2005/3338.

(**h**) Paragraph 27 of Schedule 18 was amended by paragraph 38(4) of Schedule 29 to the Finance Act 2001.

(**i**) Sections 20 to 20D were substituted for section 20 by Schedule 6 to the Finance Act 1976, and section 20B was amended by section 126(4) of the Finance Act 1988 and section 144 of the Finance Act 1989.

(**j**) 1992 c. 5; section 110ZA was substituted by section 7 of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3)

(b) section 104ZA of the Social Security Administration (Northern Ireland) Act 1992(**a**) (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), and

(c) section 25 of the Tax Credits Act 2002(**b**) (payments of working tax credit by employers),

the amendments made respectively by paragraphs 84, 85 and 90 shall be disregarded.

10. In relation to a notice given on or before 31st March 2009, for the purposes of the application of—

(a) subsections (1) to (8) and 8(C) to 9 of section 20 of TMA 1970(**c**) (powers to call for information relevant to liability to income tax, corporation tax or capital gains tax), and

(b) sections 20B, 20BB and 20D of that Act so far as relating to those subsections,

to section 174 of the Finance Act 2006(**d**) (international tax enforcement arrangements: information powers), the amendments made by paragraph 91 shall be disregarded.

11. Where a notice is given on or before 31st March 2009, the amendments made by paragraph 78 (amendment to section 12(3) (secrecy) of the National Savings Bank Act 1971(**e**)) shall be disregarded so far as they affect the notice.

12. In consequence of the preceding provisions of this Order, the amendments made by paragraph 92 shall be disregarded so far as they affect any notice referred to in those provisions, given on or before 31st March 2009.

Bob Blizzard
Steve McCabe

26th February 2009 — Two of the Lords Commissioners of Her Majesty's Treasury

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(**a**) 1992 c. 8; section 104ZA was substituted by section 8 of the National Insurance Contributions and Statutory Payments Act 2004.

(**b**) 2002 c. 21; section 25 was amended by paragraph 265 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

(**c**) Sections 20 to 20D were substituted for section 20 by Schedule 6 to the Finance Act 1976. In section 20, subsections (1), (2) and (3) were amended respectively by section 142(2), (3) and (4) of the Finance Act 1989; subsections (4) and (5) were repealed by section 142(5) of the Finance Act 1989; subsection (6) was amended by section 142(6) of the Finance Act 1989; subsection (7) was amended by section 126(2) of the Finance Act 1988; subsection (7A) was inserted by section 93 of the Finance Act 1990; subsections (7AB) and (7AC) were inserted by section 255(2) of the Finance Act 1994; subsection (8) was substituted by section 142(7) of the Finance Act 1989; subsections (8C) and (8D) were inserted by section 142(8) of the Finance Act 1989; and subsections (8E) and (8H) were inserted by section 255(3) of the Finance Act 1994.

(**d**) 2006 c. 25

(**e**) 1971 c. 29.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st April 2009 as the day on which Schedule 36 to the Finance Act 2008 ("Schedule 36") comes into force. That Schedule contains powers enabling an officer of Revenue and Customs to call for information and carry out inspections when checking any person's position as it relates to income tax, corporation tax, capital gains tax and value added tax. The new rules also apply to checks of the operation of PAYE, the Construction Industry Scheme and for checks of national insurance contributions. Schedule 36 repeals the main existing information powers, but the Order contains savings provisions the effect of which is to keep in force the rules regarding appeals and penalties that previously applied in relation to all information notices issued on or before 31 March 2009.

Article 1 provides for citation and interpretation.

Article 2 provides that Schedule 36 comes into force on 1 April 2009.

Article 3 preserves the existing rules for notices issued under section 19A of the Taxes Management Act 1970 ("TMA 1970") on or before 31 March 2009, including the rules relating to penalties for failing to comply with a section 19A notice.

Article 4 preserves the existing rules in sections 20, 20B and 20BB TMA 1970 for notices issued under section 20 TMA 1970 on or before 31 March 2009.

Article 5 preserves the existing rules in Schedule 1A TMA 1970 in relation to notices issued under paragraph 6 of that Schedule on or before 31 March 2009.

Article 6 preserves the existing rules in relation to notices issued under section 767C of the Income and Corporation Taxes Act 1988 on or before 31 March 2009.

Article 7 preserves the existing rules in paragraphs 27 to 29 of Schedule 18 to the Finance Act 1998 in relation to notices issued under paragraph 27 of that Schedule on or before 31 March 2009.

Article 8 preserves the existing rules in paragraphs 27 to 29 of Schedule 18 to the Finance Act 1998 in relation to notices given for the purposes of regulation 5 of the Lloyd's Underwriters (Tax) Regulations 2005 on or before 31 March 2009.

Article 9 preserves the existing rules in cases where section 20 TMA 1970 has been used in connection with enquiries concerning national insurance contributions and tax credits.

Article 10 preserves the existing rules in cases where section 20 TMA 1970 has been used in connection with obligations under international tax enforcement arrangements.

Article 11 preserves the existing wording of section 12(3) of the National Savings Bank Act 1971 in cases where section 20 TMA 1970 has been used to obtain account details under the 1971 Act.

Article 12 makes provision consequent on the savings made by the preceding Articles.

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£4.00

E3815 3/2009 193815T 19585