

**2011 No. 701 (C. 26)**

**INCOME TAX**

**CAPITAL GAINS TAX**

**SOCIAL SECURITY**

**The Finance Act 2009, Sections 101 to 103 (Income Tax Self Assessment) (Appointed Days and Transitional and Consequential Provisions) Order 2011**

<i>Made</i> - - - -	<i>10th March 2011</i>
<i>Laid before the House of Commons</i>	<i>11th March 2011</i>
<i>Coming into force</i> - -	<i>1st April 2011</i>

The Treasury make the following Order in exercise of the powers conferred by section 104(3) to (7) of the Finance Act 2009(a).

**Citation, commencement and effect**

**1.**—(1) This Order may be cited as the Finance Act 2009, Sections 101 to 103 (Income Tax Self Assessment) (Appointed Days and Transitional and Consequential Provisions) Order 2011 and comes into force on 1st April 2011.

(2) The amendments made by articles 6 to 11 have effect on and after 31st October 2011.

**Interpretation**

**2.** In this Order—

“HMRC” means Her Majesty’s Revenue and Customs;

“self-assessment amount” means any tax or other amount in relation to which, for any tax year—

(a) a return falls to be made under—

(i) section 8(1)(a) of the Taxes Management Act 1970 (personal return)(b),

(ii) section 8A(1)(a) of that Act (trustee’s return)(c), or

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(a) 2009 c. 10.

(b) 1970 c. 9. Section 8, together with sections 8A and 9, was substituted for sections 8 and 9 by section 90(1) of the Finance Act 1990 (c. 29) and relevantly amended by section 178(1) of the Finance Act 1994 (c. 9); section 121(1) of the Finance Act 1996 (c. 8); and sections 88(1) and (2) and 114 of, and Part 5(3) of Schedule 27 to, the Finance Act 2007 (c. 11).

(c) Section 8A(1) was substituted by section 178(2) of the Finance Act 1994 and amended by section 103(3) of the Finance Act 1995 (c. 4); section 121(1) of the Finance Act 1996; and sections 89(1) and (2) and 114 of, and Part 5(3) of Schedule 27 to, the Finance Act 2007.

- (iii) section 12AA(2)(a) or (3)(a) of that Act (partnership return)(a), or
  - (b) an assessment is made under section 29 of that Act (assessment where loss of tax discovered)(b),
- and includes any penalties assessed in relation to that tax or amount.

### Appointed days

3.—(1) 31st October 2011 is the day appointed for the coming into force of sections 101 and 103 of the Finance Act 2009 (late payment interest on sums due to HMRC)(c) for the purposes of any self-assessment amount payable by a person to HMRC.

(2) 31st October 2011 is the day appointed for the coming into force of sections 102 and 103 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC)(d) for the purposes of any self-assessment amount payable or repayable by HMRC to any person.

### Transitional provision

4.—(1) In relation to any self-assessment amount payable by a person to HMRC and outstanding immediately prior to 31st October 2011—

- (a) section 86 of the Taxes Management 1970 (interest on overdue income tax and capital gains tax)(e) has effect up to and including 30th October 2011, and
- (b) sections 101 and 103 of the Finance Act 2009 have effect on and after 31st October 2011.

(2) In relation to any self-assessment amount payable or repayable by HMRC to a person and outstanding immediately prior to 31st October 2011—

- (a) section 824 of the Income and Corporation Taxes Act 1988 (repayment supplements: individuals and others)(f) and section 283 of the Taxation of Chargeable Gains Act 1992 (repayment supplements)(g) have effect up to and including 30th October 2011, and
- (b) sections 102 and 103 of the Finance Act 2009 have effect on and after 31st October 2011.

5. For the avoidance of doubt, section 86 of the Taxes Management Act 1970, section 824 of the Income and Corporation Taxes Act 1988 and section 283 of the Taxation of Chargeable Gains Act 1992 do not have effect in relation to any self-assessment amount which becomes payable or repayable on or after 31st October 2011.

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- (a) Section 12AA was inserted by section 184 of the Finance Act 1994 and relevantly amended by section 123(1) and (2) of the Finance Act 1996.
  - (b) Section 29 was substituted by section 191 of the Finance Act 1994 and amended by section 117(3) of, and paragraph 12 of Schedule 19 to, the Finance Act 1998 (c. 36); section 88 of, and paragraph 22 of Schedule 29 to, the Finance Act 2001(c. 9); section 88(2) of the Finance Act 2005 (c. 7); sections 113 and 118 of, and paragraphs 65 and 71 of Schedule 36, and paragraphs 1 and 3 of Schedule 39, to, the Finance Act 2008 (c. 9); and section 374 of, and paragraphs 1 and 5 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010 (c. 8).
  - (c) For the rate of interest under section 103 see S.I. 2010/1879.
  - (d) For the rate of interest under section 103 see S.I. 2010/1879.
  - (e) Section 86 was amended by sections 131(2) and 132 of, and paragraph 3 of Schedule 18 to, the Finance Act 1996.
  - (f) 1988 c. 1. Section 824 was amended by section 146 of, and paragraph 7 of Schedule 13 to, the Finance Act 1988 (c. 39); sections 110(5), 111(4), and 187 of, and Part 10 of Schedule 17 to, the Finance Act 1989 (c. 26); sections 196 and 258 of, and paragraph 41 of Schedule 19, and Part 5(23) of Schedule 26, to, the Finance Act 1994; section 92(1) to (4) of the Finance Act 1997 (c. 16); section 41 of the Finance Act 1999 (c. 16); section 90 of the Finance Act 2001; section 722 of, and paragraphs 1 and 104 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1); section 281(1) of, and paragraphs 2 and 33 of Schedule 35 to, the Finance Act 2004 (c. 12); sections 882(1) and 884 of, and paragraphs 1 and 331 of Schedule 1, and Schedule 3, to, the Income Tax (Trading and Other Income) Act 2005 (c. 5); section 34(1) of, and paragraph 15 of Schedule 12 to, the Finance Act 2008; section 40 of, and paragraph 10(a) of Schedule 19 to, the Finance Act 2009; and article 4(1) of S.I. 2010/157.
  - (g) 1992 c. 12. Section 283 was amended by sections 196 and 258 of, and paragraph 46 of Schedule 19, and Part 5(23) of Schedule 26, to, the Finance Act 1994; section 92(5) of the Finance Act 1997; and sections 88 and 178 of, and paragraphs 7 and 24 of Schedule 12, and Part 3(15) of Schedule 26, to, the Finance Act 2006 (c. 25).

### Consequential provision

6. The Taxes Management Act 1970 is amended as follows.

7. In section 69(1) (recovery of penalty, surcharge or interest)(a), at the end of paragraph (c) insert—

“; and

(d) interest charged under section 101 of the Finance Act 2009.”

8.—(1) Section 107A (relevant trustees)(b) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), for “section 103A of this Act” substitute “section 101 of the Finance Act 2009”;

(b) in paragraph (c), after “Schedule 56 to the Finance Act 2009” insert “, or to interest under section 101 of that Act on such a penalty;”; and

(c) in paragraph (d), after “section 86 of this Act” insert “or section 101 of the Finance Act 2009”.

(3) In subsection (3)—

(a) for paragraph (a) substitute—

“(a) in relation to—

(i) a penalty under paragraph 4 of Schedule 55 to the Finance Act 2009 in respect of a return or other document falling within item 1, 2 or 3 of the Table in paragraph 1 of that Schedule, or

(ii) interest under section 101 of that Act on a penalty within sub-paragraph (i), the beginning of the penalty date as defined in paragraph 1(4) of that Schedule;”;

(b) in paragraph (b), for “section 103A of this Act” substitute “section 101 of the Finance Act 2009”; and

(c) in paragraph (c)—

(i) at the end of sub-paragraph (i), omit “or”; and

(ii) after sub-paragraph (ii) insert—

“or

(iii) interest under section 101 of that Act on a penalty within sub-paragraph (i) or (ii).”.

9. In paragraph 6(1) of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (other provisions)(c)—

(a) for “Section 86 of the Taxes Management Act 1970 (interest on overdue tax)” substitute “Section 101 of the Finance Act 2009 (late payment interest on sums due to HMRC)”; and

(b) for “section 824 of the Act of 1988 (repayment supplements)” substitute “section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC)”.

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(a) Section 69 was substituted by section 89(2) of the Finance Act 2001 and relevantly amended by article 6 of S.I. 2011/702.

(b) Section 107A was inserted by section 103(5) of the Finance Act 1995 and amended by section 113 of, and paragraphs 65 and 75 of Schedule 36 to, the Finance Act 2008; article 8 of, and paragraphs 1 and 4 of Schedule 1 to, S.I. 2009/571; article 2 of, and paragraphs 1 and 3 of the Schedule to, S.I. 2010/530 and article 10 of S.I. 2011/702.

(c) 1992 c. 4. Paragraph 6(1) was amended by section 59(5) of the Social Security Act 1998 (c. 14).

**10.** In the Taxes (Interest Rate) Regulations 1989**(a)**, omit regulation 3(1)(ab).

**11.** In regulation 4(1) of the Recovery of Social Security Contributions Due in Other Member States Regulations 2010 (interest for late payment of claims)**(b)** for the words from “under section 178” to “inclusive” substitute—

“under—

(a) section 178 of the Finance Act 1989 for the purposes of Class 1, 1A and 1B national insurance contributions, or

(b) sections 101 and 103 of the Finance Act 2009 for the purposes of Class 4 national insurance contributions,

from the date of recognition until the date of payment inclusive.”

*Angela Watkinson*

*James Duddridge*

10th March 2011

Two of the Lords Commissioners of Her Majesty’s Treasury

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**(a)** S.I. 1989/1297. Regulation 3 was substituted by regulation 2 of S.I. 1996/3187 and relevantly amended by regulation 2 of S.I. 1998/310.

**(b)** S.I. 2010/926.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order comes into force on 1st April 2011. Article 3 of this Order appoints 31st October 2011 as the day on which the interest regime contained in sections 101 to 103 of the Finance Act 2009 (c. 10) comes into force for the purposes of self-assessment amounts that are payable by a person to Her Majesty's Revenue and Customs ("HMRC") or payable or repayable by HMRC to any person.

Article 4 provides for transitional arrangements which ensure that self-assessment amounts accruing interest or repayment supplement under the existing interest regimes will continue to accrue interest under sections 101 to 103 of the Finance Act 2009 from 31st October 2011 onwards.

Article 5 clarifies that the existing interest provisions do not have effect for self-assessment amounts payable or repayable from 31st October 2011 onwards.

Article 7 makes a consequential amendment to section 69(1) of the Taxes Management Act 1970 (c. 9) applying that section to interest charged under section 101 of the Finance Act 2009 on self-assessment amounts.

Article 8 makes consequential amendments to section 107A of the Taxes Management Act 1970, replacing references to section 103A of that Act with references to section 101 of the Finance Act 2009 and ensuring that interest under that section is recoverable from the relevant trustees of a settlement.

Article 9 makes a consequential amendment to paragraph 6 of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (c. 4) which replaces references to section 86 of the Taxes Management Act 1970 and section 824 of the Income and Corporation Taxes Act 1988 (c. 1) with references to sections 101 and 102 of the Finance Act 2009, respectively.

Article 10 omits regulation 3(1)(ab) of the Taxes (Interest Rate) Regulations 1989 (S.I. 1989/1297), which sets the rate applicable under section 178 for the purposes of section 103A of the Taxes Management Act 1970, so far as it relates to any person who may be required by a notice under section 8, 8A or 12AA of that Act (or under any of those sections as extended by section 12 of that Act) to make and deliver a return for a year of assessment or other period, and income tax or capital gains tax. The reference to section 103A in article 3(1)(ab) is omitted as section 178 will no longer be applicable to that section.

Article 11 makes a consequential amendment to regulation 4(1) of the Recovery of Social Security Contributions Due in Other Member States Regulations 2010 (S.I. 2010/926) which replaces a reference to section 178 of the Finance Act 1989 (c. 26) with a reference to sections 101 and 103 of the Finance Act 2009 for the purposes of Class 4 national insurance contributions.

A full Impact Assessment of the effect that the interest harmonisation and late filing and late payment penalties reform will have on the costs of business and the voluntary sector was published by HMRC on 14th April 2009 and is available at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.

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