

**Changes to legislation:** Employment Act 2002, Paragraph 3 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 1

#### PENALTIES: PROCEDURE AND APPEALS

##### Modifications etc. (not altering text)

- C1** Sch. 1 applied (with modifications) by 1992 c. 5, s. 113A(8)(9) (as inserted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), ss. 9\(5\), 13; S.I. 2004/1943, art. 4\(c\)](#))
- C1** Sch. 1 applied (with modifications) by 1992 c. 5, s. 113B(4)(5) (as inserted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), ss. 9\(5\), 13; S.I. 2004/1943, art. 4\(c\)](#))

##### *Appeals against penalty determinations*

- 3 (1) An appeal may be brought against the determination of a penalty under paragraph 1.
- (2) The provisions of the Taxes Management Act 1970 relating to appeals, except section 50(6) to (8), shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax<sup>[F1]</sup> except that references to the tribunal shall be taken to be references to the First-tier Tribunal].
- (3) On an appeal by virtue of sub-paragraph (2) against the determination of a penalty under paragraph 1, the <sup>[F2]</sup>First-tier Tribunal] may—
- (a) if it appears <sup>F3</sup>... that no penalty has been incurred, set the determination aside;
  - (b) if the amount determined appears <sup>F3</sup>... to be appropriate, confirm the determination;
  - (c) if the amount determined appears <sup>F4</sup>... to be excessive, reduce it to such other amount (including nil) as <sup>[F5]</sup>the tribunal considers] appropriate;
  - (d) if the amount determined appears <sup>F4</sup>... to be insufficient, increase it to such amount not exceeding the permitted maximum as <sup>[F5]</sup>the tribunal considers] appropriate.
- <sup>[F6]</sup>(4) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which had been determined under sub-paragraph (3), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.
- (4A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (4) as it applies to the right of appeal under section 11(2) of that Act.

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(4B) On an appeal under this paragraph the Upper Tribunal has the like jurisdiction as is conferred on the First-tier Tribunal by virtue of this paragraph.]

**Textual Amendments**

- F1** Words in Sch. 1 para. 3(2) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(2)**
- F2** Words in Sch. 1 para. 3(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(3)(a)**
- F3** Words in Sch. 1 para. 3(3)(a)(b) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(3)(b)**
- F4** Words in Sch. 1 para. 3(3)(c)(d) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(3)(c)(i)**
- F5** Words in Sch. 1 para. 3(3)(c)(d) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(3)(c)(ii)**
- F6** Sch. 1 para. 3(4)-(4B) substituted for Sch. 1 para. 3(4) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 322(4)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3)(e) and word inserted by [2023 c. 20 Sch. para. 36\(4\)\(c\)](#)
- s. 15(2)(bb) word omitted by [2023 c. 20 Sch. para. 43\(a\)](#)
- s. 15(2)(bc) inserted by [2023 c. 20 Sch. para. 43\(b\)](#)