

Changes to legislation: Employment Act 2002, Paragraph 4 is up to date with all changes known to be in force on or before 19 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\(c\)](#))

Penalty proceedings before [^{F1}First-tier Tribunal]

- 4 (1) An officer of the Board authorised by the Board for the purposes of this paragraph may commence proceedings for any penalty to which sub-paragraph (1) of paragraph 1 does not apply by virtue of sub-paragraph (2) of that paragraph.
- [^{F2}(2) The person liable to the penalty shall be a party to the proceedings.]
- (3) Part 6 of the Taxes Management Act 1970 (c. 9) shall apply in relation to a penalty determined in proceedings under this paragraph as if it were tax charged in an assessment and due and payable.
- [^{F3}(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 determination of a penalty in proceedings under sub-paragraph (1), 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.]
- (5) On any such appeal the [^{F4}Upper Tribunal] may—
- if it appears that no penalty has been incurred, set the determination aside;
 - if the amount determined appears to be appropriate, confirm the determination;
 - if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the [^{F4}Upper Tribunal] considers appropriate;
 - if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the [^{F4}Upper Tribunal] considers appropriate.

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Textual Amendments

- F1** Words in Sch. 1 para. 4 heading 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. 323(2)**
- F2** Sch. 1 para. 4(2) 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. 323(3)**
- F3** Sch. 1 para. 4(4)(4A) substituted for Sch. 1 para. 4(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. 323(4)**
- F4** Words in Sch. 1 para. 4(5) 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. 323(5)**

Commencement Information

- I1** Sch. 1 para. 4 in force at 6.4.2003 by S.I. 2002/2866, art. 2(2), **Sch. 1 Pt. 3** (with Sch. 3)

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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\(b\)](#)