

**Changes to legislation:** Finance Act 2008, Paragraph 46 is up to date with all changes known to be in force on or before 23 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 36

#### INFORMATION AND INSPECTION POWERS

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

- C1 Sch. 36 modified (24.2.2022) by Finance Act 2022 (c. 3), **Sch. 14 para. 18**
- C1 Sch. 36 applied (with modifications) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 16 paras. 40-43** (as amended (with effect in accordance with s. 123(12) of the amending Act) by Finance Act 2021 (c. 26), **s. 123(4)-(7)**)
- C1 Sch. 36 applied (with modifications) (24.2.2022) by Finance Act 2022 (c. 3), **Sch. 13 para. 6(1)(3)**
- C1 Sch. 36 modified (22.3.2011) by National Insurance Contributions Act 2011 (c. 3), **ss. 9(5), 13(2)**
- C1 Sch. 36 applied (24.2.2022) by Finance Act 2022 (c. 3), **Sch. 14 para. 17(1)**
- C1 Sch. 36 applied (with modifications) (19.4.2013) by The Small Charitable Donations Regulations 2013 (S.I. 2013/938), **regs. 1, 5**
- C1 Sch. 36 modified (8.4.2010) by Finance Act 2010 (c. 13), **Sch. 1 para. 36(1)**
- C1 Sch. 36 applied (with modifications) (with effect in accordance with s. 121(6) of the amending Act) by 2014 c. 26, **s. 272A** (as inserted by Finance Act 2021 (c. 26), **Sch. 30 para. 4**)
- C1 Sch. 36 applied (19.4.2013) by The Small Charitable Donations Regulations 2013 (S.I. 2013/938), **regs. 1, 5(1)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), **regs. 1(1), 33(2)(3)** (with reg. 1(4)(6))
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009/128), **regs. 1(1), 55(1)(2)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), **regs. 1(1), 60(1)(2)** (with reg. 1(4)(6))
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009/128), **regs. 1(1), 28(2)(3)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), **regs. 1(1), 61** (with reg. 1(4)(6))
- C1 Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by The Education (Postgraduate Master's Degree Loans) Regulations 2016 (S.I. 2016/606), **regs. 1(1), 78(1)(2)**
- C1 Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by The Education (Postgraduate Master's Degree Loans) Regulations 2016 (S.I. 2016/606), **regs. 1(1), 77(1)(2)**
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009/128), **regs. 1(1), 56**
- C1 Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by The Education (Postgraduate Master's Degree Loans) Regulations 2016 (S.I. 2016/606), **regs. 1(1), 43(2)(3)**
- C1 Sch. 36 applied (with modifications) (1.5.2023) by The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68), **arts. 1(1), 12** (with art. 1(2))
- C1 Sch. 36 applied (with modifications) (1.1.2017) by Finance Act 2016 (c. 24), **s. 162(2), Sch. 20 paras. 18-21**; S.I. 2016/1249, **reg. 2**

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## PART 7

### PENALTIES

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

- C1 Sch. 36 Pt. 7 modified (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by 2010 c. 8, s. 371UBA(5) (as inserted by Finance (No. 2) Act 2015 (c. 33), Sch. 3 para. 10(5))
- C1 Sch. 36 Pt. 7 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))
- C1 Sch. 36 Pt. 7 modified (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by 2010 c. 4, s. 269DM(5) (as inserted by Finance (No. 2) Act 2015 (c. 33), Sch. 3 para. 1)
- C1 Sch. 36 Pt. 7 modified (14.7.2022) by Energy (Oil and Gas) Profits Levy Act 2022 (c. 40), s. 12(5) (with ss. 15(1), 16(1))
- C1 Sch. 36 applied (with modifications) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 16 paras. 40-43
- C1 Sch. 36 Pt. 7 applied (with modifications) (14.10.2013) by S.I. 2006/208, reg. 5 (as inserted (E.W.S.) by The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/2259), regs. 1, 21) (as amended (6.4.2015) by The Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/673), regs. 1, 6(a))
- C1 Sch. 36 Pt. 7 applied (1.4.2011) by 1979 c. 2, s. 118G(2) (as inserted by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 15(3); S.I. 2011/777, art. 2)
- C1 Sch. 36 Pt. 7 applied (13.8.2009) by 2007 c. 11, Sch. 11 para. 2(7) (as substituted by The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), Sch. para. 53)

#### *F1* Assessment of ... penalty

#### Textual Amendments

- F1 Words in Sch. 36 para. 46 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 17(5)

- 46 (1) Where a person becomes liable for a penalty under paragraph 39 [<sup>F1</sup> 40 or 40A],  
<sup>F2</sup> ... —
- (a) [<sup>F3</sup>HMRC may] assess the penalty, and
  - (b) [<sup>F4</sup>if they do so, they must] notify the person.
- (2) An assessment of a penalty under paragraph 39 or 40 must be made [<sup>F5</sup>within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to sub-paragraph (3)].
- [<sup>F6</sup>(3) In a case involving an information notice against which a person may appeal, an assessment of a penalty under paragraph 39 or 40 must be made within the period of 12 months beginning with the latest of the following—
- (a) the date on which the person became liable to the penalty,
  - (b) the end of the period in which notice of an appeal against the information notice could have been given, and
  - (c) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn.

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- (4) An assessment of a penalty under paragraph 40A must be made—
- (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of an officer of Revenue and Customs, and
  - (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.]

#### Textual Amendments

- F1** Words in Sch. 36 para. 46(1) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(2\)\(a\)](#)
- F2** Words in Sch. 36 para. 46(1) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(2\)\(b\)](#)
- F3** Words in Sch. 36 para. 46(1)(a) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(2\)\(c\)](#)
- F4** Words in Sch. 36 para. 46(1)(b) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(2\)\(d\)](#)
- F5** Words in Sch. 36 para. 46(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(3\)](#)
- F6** Sch. 36 para. 46(3) (4) substituted for Sch. 36 para. 46(3) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 17\(4\)](#)

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

- C1** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 49 para. 5\(3\)](#) (with [Sch. 49 para. 1](#))
- C2** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153D\(8\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C3** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153E\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C4** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C5** Sch. 36 paras. 46-49 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159D\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
- C6** Sch. 36 paras. 44-49 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
- C7** Sch. 36 paras. 46-49 applied (with modifications) (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 1 para. 17\(6\)](#)
- C8** Sch. 36 paras. 46-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 2 para. 20\(8\)](#)
- C9** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 1 para. 16\(5\)](#)
- C10** Sch. 36 paras. 46-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 1 para. 5\(8\)](#)
- C11** Sch. 36 paras. 44-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 2 para. 22\(5\)](#)
- C12** Sch. 36 paras. 46-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 2 para. 23\(3\)](#)
- C13** Sch. 36 paras. 46-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 1 para. 12\(8\)](#)
- C14** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by [The Delivery of Tax Information through Software \(Ancillary Metadata\) Regulations 2019 \(S.I. 2019/360\)](#), [regs. 1\(1\), 4\(3\)-\(6\)](#)
- C15** Sch. 36 para. 46(1) applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), [s. 6\(2\)\(3\)](#), [Sch. 2 para. 12\(2\)](#)

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**Commencement Information**

**II** Sch. 36 para. 46 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)