



Taxes Management Act 1970

1970 CHAPTER 9

PART X

PENALTIES, ETC.

[^{F1}100 Determination of penalties by officer of the Board.

- (1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below ^{F2}... , an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.
- (2) Subsection (1) above does not apply where the penalty is a penalty under—
 - ^{F3}(a)
 - (b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No. 2) Act 1987,
 - (c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments [^{F4}, subject to subsection (2A)], or
 - (d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989, [^{F5}or
 - (e) section 98B(2)(a) above] [^{F6}, or
 - (f) section 98C(1)(a) above] [^{F7}...
 - ^{F7}(g)

[Subsection (2)(c) does not exclude the application of subsection (1) where the penalty ^{F8}(2A) relates to a failure to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003 (employment intermediaries to keep, preserve and provide information etc).]

- (3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within such an appeal against the determination may be made.

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- (4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section or on appeal.
- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.
- (6) In any case where—
- (a) a determination under this section is of a penalty under ^{F9}... ^{F10}... [^{F11}paragraph 18(2) of Schedule 18 to the Finance Act 1998]^{F12}... , and
 - (b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,
- the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.]

Textual Amendments

- F1** Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)
- F2** Words in s. 100(1) repealed (with effect in accordance with reg. 1(1) of the amending S.I.) by [The General and Special Commissioners \(Amendment of Enactments\) Regulations 1994 \(S.I. 1994/1813\), Sch. 1 para. 14, Sch. 2 Pt. I](#)
- F3** S. 100(2)(a) omitted (1.4.2011) by virtue of [The Finance Act 2009, Schedules 55 and 56 \(Income Tax Self Assessment and Pension Schemes\) \(Appointed Days and Consequential and Savings Provisions\) Order 2011 \(S.I. 2011/702\), arts. 1\(1\), 8\(a\) \(with arts. 20, 22\)](#)
- F4** Words in s. 100(2)(c) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 18\(2\)](#)
- F5** S. 100(2)(e) and preceding word inserted by [Finance Act 1990 \(c. 29\), s. 69, Sch. 11 para. 3\(1\) on and after 1 July 1989.](#)
- F6** S. 100(2)(f) and preceding word inserted (22.7.2004 for specified purposes) by [Finance Act 2004 \(c. 12\), ss. 315\(2\), 319\(1\)\(2\) \(with s. 314\)](#)
- F7** S. 100(2)(g) and preceding word omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\), Sch. 57 para. 13\(2\)](#)
- F8** S. 100(2A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 18\(3\)](#)
- F9** Words in s. 100(6)(a) omitted (1.4.2011) by virtue of [The Finance Act 2009, Schedules 55 and 56 \(Income Tax Self Assessment and Pension Schemes\) \(Appointed Days and Consequential and Savings Provisions\) Order 2011 \(S.I. 2011/702\), arts. 1\(1\), 8\(b\)\(i\) \(with arts. 20, 22\)](#)
- F10** Word in s. 100(6)(a) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 3 \(with Sch. 36\)](#)
- F11** Words in s. 100(6)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 38; S.I. 1998/3173, art. 2](#)
- F12** Words in s. 100(6)(a) omitted (1.4.2011) by virtue of [The Finance Act 2009, Schedules 55 and 56 \(Income Tax Self Assessment and Pension Schemes\) \(Appointed Days and Consequential and Savings Provisions\) Order 2011 \(S.I. 2011/702\), arts. 1\(1\), 8\(b\)\(ii\) \(with arts. 1\(2\), 21\)](#)

Modifications etc. (not altering text)

- C1** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
 Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

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- S. 100 restricted (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), **Sch. 1**, para. 7(4)(b)
- C2** S. 100 applied (with modifications) (31.7.1997) by Finance (No. 2) Act 1997 (c. 58), **Sch. 2 para. 17(4)-(6)**
- C3** S. 100 modified (N.I.) by Social Security (Contributions) Regulations (Northern Ireland) 1979 (S.R. 1979/186), reg. 47L(1) (as inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by S.I. 2000/2208, regs. 1(1), **20**)
- C4** S. 100 applied (with modifications) (6.4.2001) by The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004), regs. 1(1), **82(1)**
- C5** S. 100 applied (E.W.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), regs. 1(1), **13(3)(a)** (with reg. 1(4)(6))
- C6** S. 100 applied (N.I.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009/128), regs. 1(1), **9(3)(a)**
- C7** S. 100 applied (E.W.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), regs. 1(1), **13(4)** (with reg. 1(4)(6))
- C8** S. 100 applied (N.I.) (6.4.2009) by The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009/128), regs. 1(1), **9(4)**
- C9** Ss. 100-102 applied (8.4.2010) by Finance Act 2010 (c. 13), **Sch. 1 para. 35(2)**
- C10** Ss. 100-103 excluded by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **s. 421JE** (as inserted (with effect in accordance with Sch. 8 para. 234 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 8 paras. 228, 232**)
- C11** Ss. 100-103 excluded by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 5 para. 57D(7)** (as inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 220, 222**)
- C12** Ss. 100-103 excluded by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 2 para. 81J(8)** (as substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 28, 89** (with Sch. 8 paras. 90-96))
- C13** Ss. 100-103 excluded by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **s. 40J(8)** (as substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 117, 146** (with Sch. 8 paras. 147-157))
- C14** Ss. 100-103 excluded by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **s. 28J(8)** (as substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 179, 204** (with Sch. 8 paras. 205-215))
- C15** Ss. 100, 100A applied (with application in accordance with reg. 1 of the amending S.I.) by The Education (Postgraduate Masters Degree Loans) Regulations 2016 (S.I. 2016/606), regs. 1(1), **24(4)**
- C16** S. 100 applied (with effect in accordance with reg. 1(3) of the amending S.I.) by The Co-ownership Authorised Contractual Schemes (Tax) Regulations 2017 (S.I. 2017/1209), regs. 1(1), **9(1)**
- C17** Ss. 100-103 applied (temp. until 30.4.2024) by Finance Act 2022 (c. 3), **Sch. 10 para. 22(9)** (with Sch. 10 para. 43 (as amended by S.I. 2022/1321, regs. 1, **2(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 [2005 c. 4 Sch. 11 para. 5](#)

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

- s. 12ABZAA(5)(a) words substituted by [2017 c. 32, Sch. 14 para. 10BA\(3\)\(a\)](#) (as inserted) by [2020 c. 14 s. 104\(4\)](#)
- s. 12ABZAA(5)(b) words substituted by [2017 c. 32, Sch. 14 para. 10BA\(3\)\(b\)](#) (as inserted) by [2020 c. 14 s. 104\(4\)](#)
- s. 7(1BA) words substituted by [2017 c. 32 Sch. 14 para. 2\(3\)](#)
- s. 8(1AB)-(1AD) inserted by [2017 c. 32 Sch. 14 para. 3\(5\)](#)
- s. 8(1HA) inserted by [2017 c. 32 Sch. 14 para. 3\(11\)](#)
- s. 8A(1)(1ZA) substituted for s. 8A(1) by [2017 c. 32 Sch. 14 para. 4\(3\)](#)
- s. 8A(1AB)-(1AD) inserted by [2017 c. 32 Sch. 14 para. 4\(5\)](#)
- s. 8A(1FA) inserted by [2017 c. 32 Sch. 14 para. 4\(9\)](#)
- s. 8A(6)(7) inserted by [2017 c. 32 Sch. 14 para. 4\(12\)](#)
- s. 12B(1)(1A) substituted for s. 12B(1) by [2017 c. 32 Sch. 14 para. 14\(2\)](#)
- s. 12B(2ZA)(2ZB) inserted by [2017 c. 32 Sch. 14 para. 14\(4\)](#)
- s. 12C and cross-heading inserted by [2017 c. 32 s. 60\(2\)](#)
- s. 12AC(1)(aa) inserted by [2017 c. 32 Sch. 14 para. 13\(2\)\(c\)](#)
- s. 12AC(7)(a) words inserted by [2017 c. 32 Sch. 14 para. 13\(3\)\(b\)](#)
- s. 12AC(7)(a) words renumbered as s. 12AC(7)(a) by [2017 c. 32 Sch. 14 para. 13\(3\)\(a\)](#)
- s. 12AC(7)(b) inserted by [2017 c. 32 Sch. 14 para. 13\(3\)\(c\)](#)
- s. 12ABA(5) inserted by [2017 c. 32 Sch. 14 para. 11\(4\)](#)
- s. 28ZA(6)(c) inserted by [2017 c. 32 Sch. 14 para. 15\(b\)](#)
- s. 29(6)(aa) inserted by [2017 c. 32 Sch. 14 para. 20\(3\)](#)
- s. 29(7)(a)(ia) omitted by [2019 c. 1 Sch. 2 para. 25\(6\)](#)
- s. 46B(5)(f) and word inserted by [2009 c. 4 Sch. 1 para. 303](#)
- s. 49E(5A) inserted by [2021 c. 26 Sch. 27 para. 4](#)
- s. 49EA inserted by [2021 c. 26 Sch. 27 para. 5](#)
- s. 49FA inserted by [2021 c. 26 Sch. 27 para. 6](#)
- s. 61(1A) inserted by [2007 c. 15 Sch. 13 para. 33\(3\)](#)
- s. 61(1A) omitted by [2008 c. 9 Sch. 43 para. 1\(3\)](#)
- s. 63(2)(aa) inserted by [2007 asp 3 Sch. 5 para. 9\(2\)](#)
- s. 69(1)(aa) inserted by [2021 c. 26 Sch. 27 para. 7\(a\)](#)
- s. 103ZA(m)-(o) inserted by [2021 c. 26 Sch. 27 para. 8\(b\)](#)
- s. 107A(3)(e) inserted by [2021 c. 26 Sch. 27 para. 9\(3\)\(c\)](#)
- Sch. A1 amendment to earlier affecting provision [2017 c. 32, s. 60](#) by [2018 c. 3 Sch. 6 para. 7\(2\)\(a\)](#)
- Sch. A1 amendment to earlier affecting provision [2017 c. 32, s. 60](#) by [2018 c. 3 Sch. 6 para. 7\(2\)\(b\)](#)
- Sch. A1 inserted by [2017 c. 32 s. 60\(3\)](#)