



# Child Trust Funds Act 2004

## 2004 CHAPTER 6

### *Penalties*

#### **20 Penalties**

- (1) A penalty of £300 may be imposed on any person who fraudulently—
  - (a) applies to open a child trust fund,
  - (b) makes a withdrawal from a child trust fund otherwise than as permitted by regulations under section 3(4)(d), or
  - (c) secures the opening of a child trust fund by the Inland Revenue.
- (2) A penalty not exceeding £3,000 may be imposed on—
  - (a) an account provider who fraudulently or negligently makes an incorrect statement or declaration in connection with a claim under section 8 or 9 or regulations under section 10 or 13, and
  - (b) any person who fraudulently or negligently provides incorrect information in response to a requirement imposed by or under regulations under section 15.
- (3) Penalties may be imposed on—
  - (a) an account provider who fails to make a claim under section 8 or 9 or regulations under section 10 by the time required by regulations under the section concerned, and
  - (b) any person who fails to make a document available, or provide information, in accordance with regulations under section 15.
- (4) The penalties which may be imposed under subsection (3) are—
  - (a) a penalty not exceeding £300, and
  - (b) if the failure continues after a penalty under paragraph (a) is imposed, a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

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*Changes to legislation: There are currently no known outstanding effects for the Child Trust Funds Act 2004, Cross Heading: Penalties. (See end of Document for details)*

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- (5) No penalty under subsection (3) may be imposed on a person in respect of a failure after the failure has been remedied.
- (6) For the purposes of subsection (3) a person is to be taken not to have failed to make a claim, make available a document or provide information which must be made, made available or provided by a particular time—
- (a) if the person made it, made it available or provided it within such further time (if any) as the Inland Revenue may have allowed,
  - (b) if the person had a reasonable excuse for not making it, making it available or providing it by that time, or
  - (c) if, after having had such an excuse, the person made it, made it available or provided it without unreasonable delay.
- (7) A penalty may be imposed on an account provider in respect of—
- (a) the provision by the account provider, as a child trust fund, of an account which does not meet the condition in subsection (8),
  - (b) a failure by the account provider to comply with section 8(2) or 9(3) or with a requirement imposed on the account provider by regulations under section 5(5), 6(3), 7<sup>F1</sup>, 7A, 7B] or 10(3), or
  - (c) a breach of section 12(1), or regulations under section 12(2), in relation to a child trust fund held with the account provider.
- (8) An account meets the condition referred to in subsection (7)(a) if—
- (a) it is of one of the descriptions prescribed by regulations under section 3(2),
  - (b) section 3(4) is complied with in relation to it, and
  - (c) the requirements imposed by regulations under section 3(5) are satisfied in relation to it.
- (9) The penalty which may be imposed under subsection (7) on the account provider is a penalty not exceeding—
- (a) £300, or
  - (b) £1 in respect of each account affected by the matter, or any of the matters, in respect of which the penalty is imposed,
- whichever is greater.

#### Textual Amendments

**F1** Words in s. 20(7)(b) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), ss. [62\(5\)](#), [115\(2\)\(d\)](#)

#### Commencement Information

- I1** S. 20(1)(a) s. 20(2)-(6) (7)(a) (7)(b) (8) (9) in force at 1.1.2005 for specified purposes by [S.I. 2004/2422](#), [art. 2](#)
- I2** S. 20(1)(a) s. 20(2)-(6) (7)(a) (7)(b) (8) (9) in force at 6.4.2005 in so far as not already in force by [S.I. 2004/3369](#), [art. 2\(1\)\(2\)\(4\)](#)
- I3** S. 20(1)(b)(c)(7)(c) in force at 6.4.2005 by [S.I. 2004/3369](#), [art. 2\(1\)](#)

## 21 Decisions, appeals, mitigation and recovery

- (1) It is for the Inland Revenue to impose a penalty under section 20.

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- (2) If the Inland Revenue decide to impose such a penalty the decision must (subject to the permitted maximum) set it at such amount as, in their opinion, is appropriate.
- (3) A decision to impose such a penalty may not be made after the end of the period of six years beginning with the date on which the penalty was incurred or began to be incurred.
- (4) The Inland Revenue must give notice of such a decision to the person on whom the penalty is imposed.
- (5) The notice must state the date on which it is given and give details of the right to appeal against the decision under section 22.
- (6) After the notice has been given, the decision must not be altered except on appeal.
- (7) But the Inland Revenue may, in their discretion, mitigate any penalty under section 20.
- (8) A penalty under section 20 becomes payable at the end of the period of 30 days beginning with the date on which notice of the decision is given.
- (9) On an appeal under section 22 against a decision under this section, the [<sup>F2</sup>appropriate tribunal] may—
  - (a) if it appears that no penalty has been incurred, set the decision aside,
  - (b) if the amount set appears to be appropriate, confirm the decision,
  - (c) if the amount set appears to be excessive, reduce it to such other amount (including nil) as [<sup>F3</sup>the tribunal considers] appropriate, or
  - (d) if the amount set appears to be insufficient, increase it to such amount not exceeding the permitted maximum as [<sup>F3</sup>the tribunal considers] appropriate.
- [<sup>F4</sup>(10) 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 a penalty which has been determined under subsection (9), but not against any decision which falls under section 11(5)(d) and (e) of that Act and was made in connection with the determination of the amount of the penalty.
- (10A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under subsection (10) as it applies to the right of appeal under section 11(2) of that Act.
- (10B) On an appeal under this section the Upper Tribunal has a similar jurisdiction to that conferred on the First-tier Tribunal by virtue of this section.
- (10C) In Northern Ireland, an appeal from a decision of the appropriate tribunal lies, at the instance of the person on whom the penalty was imposed to a Northern Ireland Social Security Commissioner, who shall have a similar jurisdiction on such an appeal to that conferred on the appeal tribunal by subsection (9).]
- (11) A penalty is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (c. 9) (collection and recovery) as if it were tax charged in an assessment and due and payable.

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#### **Textual Amendments**

- F2** Words in s. 21(9) 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. 415(2)(a)**
- F3** Words in s. 21(9)(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. 415(2)(b)**
- F4** S. 21(10)-(10C) substituted for 21(10) (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. 415(3)**
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#### **Commencement Information**

- I4** S. 21 in force at 1.1.2005 for specified purposes by [S.I. 2004/2422](#), **art. 2**
- I5** S. 21 in force at 6.4.2005 in so far as not already in force by [S.I. 2004/3369](#), **art. 2(1)(2)(4)**

**Changes to legislation:**

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