



Finance Act 2001

2001 CHAPTER 9

PART 2

AGGREGATES LEVY

General provisions

46 Civil penalties

- (1) Where a person is liable to a civil penalty imposed by or under this Part—
 - (a) the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; but
 - (b) on an appeal relating to any penalty reduced by the Commissioners, an appeal tribunal may cancel the whole or any part of the Commissioners' reduction.
- (2) In determining whether a civil penalty should be, or should have been, reduced under subsection (1) above, no account shall be taken of any of the following matters, that is to say—
 - (a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the penalty;
 - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of aggregates levy;
 - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.
- (3) For the purposes of any provision made by or under this Part under which liability to a civil penalty does not arise in respect of conduct for which there is shown to be a reasonable excuse—
 - (a) an insufficiency of funds available for paying any amount is not a reasonable excuse; and
 - (b) where reliance has been placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Section 46. (See end of Document for details)

- (4) Schedule 10 to this Act (which makes provision about the assessment of civil penalties imposed and about interest on such penalties) shall have effect.
- (5) If it appears to the Treasury that there has been a change in the value of money since the time when the amount of a civil penalty provided for by this Part was fixed, they may by order made by statutory instrument substitute, for the amount for the time being specified as the amount of that penalty, such other sum as appears to them to be justified by the change.
- (6) In subsection (5) above the reference to the time when the amount of a civil penalty was fixed is a reference—
 - (a) in the case of a penalty which has not previously been modified under that subsection, to the time of the passing of this Act; and
 - (b) in any other case, to the time of the making of the order under that subsection that made the most recent modification of the amount of that penalty.
- (7) An order under subsection (5) above—
 - (a) shall not be made unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons; and
 - (b) shall not apply to the penalty for any conduct before the coming into force of the order.
- (8) In this section “civil penalty” means any penalty liability to which arises otherwise than in consequence of a person’s conviction for a criminal offence.

Changes to legislation:

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