



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART X

#### PENALTIES, ETC.

##### **[<sup>F1</sup>100B Appeals against penalty determinations.**

- (1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to [<sup>F2</sup>[<sup>F3</sup>sections 93 and 93A] of this Act][<sup>F4</sup>and] the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax[<sup>F5</sup>, except that references to the tribunal shall be taken to be references to the First-tier Tribunal].
- (2) [<sup>F6</sup>Subject to sections 93(8) and 93A(7) of this Act] on an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but—
  - (a) in the case of a penalty which is required to be of a particular amount, the [<sup>F7</sup>First-tier Tribunal] may—
    - (i) if it appears <sup>F8</sup>... that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears <sup>F8</sup>... to be correct, confirm the determination, or
    - (iii) if the amount determined appears <sup>F8</sup>... to be incorrect, increase or reduce it to the correct amount.
  - (b) in the case of any other penalty, the [<sup>F7</sup>First-tier Tribunal] may—
    - (i) if it appears <sup>F8</sup>... that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears <sup>F8</sup>... to be appropriate, confirm the determination,
    - (iii) if the amount determined appears <sup>F8</sup>... to be excessive, reduce it to such other amount (including nil) [<sup>F9</sup>as it considers] appropriate, or

*Status: Point in time view as at 06/04/2009. This version of this provision has been superseded.*

*Changes to legislation: Taxes Management Act 1970, Section 100B is up to date with all changes known to be in force on or before 27 July 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)*

(iv) if the amount determined appears <sup>F8</sup>... to be insufficient, increase it to such amount not exceeding the permitted maximum [<sup>F9</sup>as it considers] appropriate.

<sup>F10</sup>(3) In addition to any right of appeal on a point of law under section 11(2) of the TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under subsection (2), but not against any decision which falls under section 11(5)(d) and (e) of the TCEA 2007 and was made in connection with the determination of the amount of the penalty.

(3A) Section 11(3) and (4) of the TCEA 2007 applies to the right of appeal under subsection (3) as it applies to the right of appeal under section 11(2) of the TCEA 2007.

(3B) On an appeal under this section the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this section.]]

#### Textual Amendments

- F1** Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)
- F2** Words in s. 100B(1) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 31\(1\)](#); S.I. 1998/3173, art. 2
- F3** Words in s. 100B(1) substituted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 3](#)
- F4** Word in s. 100B(1) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 115\(7\)](#)
- F5** Words in s. 100B(1) inserted (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. 45\(2\)](#)
- F6** Words in s. 100B(2) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 31\(2\)](#); S.I. 1998/3173, art. 2
- F7** Words in s. 100B(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. 45\(3\)\(a\)](#)
- F8** Words in s. 100B(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 45\(3\)\(b\)](#)
- F9** Words in s. 100B(2)(b)(iii)(iv) 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. 45\(3\)\(c\)](#)
- F10** S. 100B(3)-(3B) substituted for s. 100B(3) (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. 45\(4\)](#)

#### 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\(2\)\(b\)\(9\)-\(12\)](#)
- C2** S. 100B applied (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\), regs. 1\(1\), 9\(3\)\(a\)](#)
- C3** S. 100B 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\(4\)\(6\)\)](#)
- C4** S. 100B applied (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\), regs. 1\(1\), 9\(4\)](#)
- C5** S. 100B 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\(4\)\(6\)\)](#)

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