



# Child Trust Funds Act 2004

## 2004 CHAPTER 6

### *Penalties*

#### **21 Decisions, appeals, mitigation and recovery**

- (1) It is for the Inland Revenue to impose a penalty under section 20.
- (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>F1</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>F2</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>F2</sup>the tribunal considers] appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Child Trust Funds Act 2004, Section 21. (See end of Document for details)*

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- [<sup>F3</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.

#### Textual Amendments

- F1** 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)**
- F2** 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)**
- F3** 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)**

#### Commencement Information

- I1** S. 21 in force at 1.1.2005 for specified purposes by [S.I. 2004/2422](#), **art. 2**
- I2** 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:**

There are currently no known outstanding effects for the Child Trust Funds Act 2004, Section 21.