

# **FINANCE ACT 2009**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### ***Section 106 and Schedule 55: Penalties for Failure to Make Returns Etc***

##### **Details of the Schedule**

##### **Appeal**

35. Paragraph 20 provides appeal rights against decisions by HMRC to impose a penalty and of the amount of the penalty.
36. Paragraph 21(2) provides that a person is not required to pay a penalty before an appeal against the assessment of the penalty is determined.
37. Paragraph 22(3) provides that, if the tribunal substitutes its decision for HMRC's, then it may rely on paragraph 17 (special reduction) to the same extent as HMRC or to a different extent to HMRC only if the tribunal thinks HMRC's decision in relation to paragraph 17 is flawed. Flawed is defined in paragraph 23(4) as meaning in light of the principles applicable in proceedings for judicial review.