
1 Applications for freezing orders in relation to certain penalties

- (1) Subsection (2) applies where –
 - (a) an application is made on behalf of Her Majesty’s Revenue and Customs (“HMRC”) to a court in England and Wales for a freezing order in relation to a relevant penalty before the penalty is determined, and
 - (b) the court considering the application is satisfied that HMRC have a good arguable case in relation to the penalty and –
 - (i) have commenced proceedings in relation to it, or
 - (ii) intend to commence proceedings in relation to it within the initial period.
- (2) The court is to determine the application as if it were being made immediately after the First-tier Tribunal had determined the penalty on the basis to be sought by HMRC.
- (3) A freezing order granted by virtue of subsection (2) can take effect only if –
 - (a) HMRC commence proceedings in relation to the penalty before the end of the initial period (whether before or after the application for the freezing order), and
 - (b) it is served at the same time as, or after, the application in relation to those proceedings.
- (4) A relevant penalty is a penalty that is to be determined by the First-tier Tribunal under –
 - (a) section 98C of TMA 1970 (disclosure of tax avoidance schemes);
 - (b) Schedule 35 to FA 2014 (promoters of tax avoidance schemes: penalties);
 - (c) Schedule 36 to FA 2008 (information and inspection powers) as it has effect in relation to Schedule 16 to F(No.2)A 2017 (penalties for enablers of defeated tax avoidance) (see Part 9 of Schedule 16 to F(No.2)A 2017);
 - (d) Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes).
- (5) The “initial period” is the period of 72 hours beginning with the time at which the application for a freezing order is determined.
- (6) In calculating the period of 72 hours in subsection (5), the whole of any day that is –
 - (a) a Saturday,
 - (b) a Sunday,
 - (c) Christmas Day,
 - (d) Good Friday, or
 - (e) a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales,is to be disregarded.
- (7) In this section, references to a freezing order are to an order of a sort specified by Her Majesty’s Revenue and Customs in regulations made by statutory instrument.
- (8) Her Majesty’s Revenue and Customs may by regulations made by statutory instrument make provision corresponding or similar to provision made by or under subsections (1) to (7) in relation to –

-
- (a) Scotland, and
 - (b) Northern Ireland.
- (9) A statutory instrument containing regulations under subsection (8) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (10) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.