

*Draft Order laid before Parliament under section 49 of the Tribunals, Courts and Enforcement Act 2007 and section 124 of the Finance Act 2008 for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2009 No.**

**TRIBUNALS AND INQUIRIES**

**The Transfer of Tribunal Functions and Revenue and Customs  
Appeals Order 2009**

*Made* - - - -

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*Coming into force* - -

*1st April 2009*

The Lord Chancellor and the Treasury make the following Order in exercise of the powers conferred by sections 30(1) and (4), 31(1), (2) and (9) and 38 of, and paragraph 30 of Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007(a) and section 124(1) to (7) of the Finance Act 2008(b).

A draft of this Order was laid before Parliament and approved by resolution of each House of Parliament in accordance with section 49(5) of the Tribunals, Courts and Enforcement Act 2007 and section 124(9) of the Finance Act 2008.

**Citation and commencement**

**1.**—(1) This Order may be cited as the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009.

(2) This Order comes into force on 1st April 2009.

**The existing tribunals**

**2.** In this Order “existing tribunals” means—

- (a) the Commissioners for the general purposes of the income tax established under section 2 of the Taxes Management Act 1970(c);
- (b) the Commissioners for the special purposes of the Income Tax Acts established under section 4 of the Taxes Management Act 1970;
- (c) the VAT and duties tribunals established under Schedule 12 to the Value Added Tax Act 1994(d);

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(a) 2007 c. 15.

(b) 2008 c. 9.

(c) 1970 c. 9. Sections 4 and 4A were substituted by section 127 of, and paragraphs 1 and 8 of Schedule 22 to, the Finance Act 1984 (c. 43).

(d) 1994 c. 23.

- (d) the tribunal established under section 706 of the Income and Corporation Taxes Act 1988(a); and
- (e) the tribunal established under section 704 of the Income Tax Act 2007(b).

**Transfer of functions, consequential and other amendments**

- 3.—(1) Schedule 1 contains amendments to primary legislation which—
- (a) transfer functions of existing tribunals, and
  - (b) make consequential and other provision (including provision about reviews of decisions by Her Majesty’s Revenue and Customs).
- (2) Schedule 2 contains amendments to secondary legislation which—
- (a) transfer functions of existing tribunals, and
  - (b) make consequential and other provision (including provision about reviews of decisions by Her Majesty’s Revenue and Customs).

**Abolition of existing tribunals**

4. The existing tribunals (apart from the Commissioners for the general purposes of the income tax) are abolished.

**Transfer of members of existing tribunals**

5. A person who, immediately before this Order comes into force, holds an office listed in column 1 of any of the following tables is to hold the office or offices listed in the corresponding entry in column 2 of that table—

**The Special Commissioners**

<i>1. Office held</i>	<i>2. Office or offices to be held</i>
Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970	Transferred-in judge of the Upper Tribunal
Deputy Commissioner for the special purposes of the Income Tax Acts appointed under section 4A of the Taxes Management Act 1970	Transferred-in judge of the First-tier Tribunal and deputy judge of the Upper Tribunal

**VAT and duties tribunals**

<i>1. Office held</i>	<i>2. Office or offices to be held</i>
President of VAT and duties tribunals appointed under paragraph 2 of Schedule 12 to the Value Added Tax Act 1994(c)	Transferred-in judge of the Upper Tribunal
Person appointed to a panel of chairmen of a VAT and duties tribunal under paragraph 7 of Schedule 12 to the Value Added Tax Act 1994	Transferred-in judge of the First-tier Tribunal and deputy judge of the Upper Tribunal
Person appointed to a panel of other members of a VAT and duties tribunal under paragraph 7 of Schedule 12 to the Value Added Tax Act	Transferred-in other member of the First-tier Tribunal

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(a) 1988 c. 1.  
 (b) 2007 c. 3. This tribunal was added to the list of tribunals in Schedule 6 of the Tribunals, Courts and Enforcement Act 2007 by article 2 of S.I. 2008/2833.  
 (c) 1994 c. 23.

1994	
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**Tribunal established under section 706 ICTA 1988**

<i>1. Office held</i>	<i>2. Office or offices to be held</i>
Chairman of the tribunal appointed under section 706(1)(a) of the Income and Corporation Taxes Act 1988(a)	Transferred-in judge of the Upper Tribunal
Other member of the tribunal appointed under section 706(1)(b) of the Income and Corporation Taxes Act 1988	Transferred-in other member of the First-tier Tribunal

**Tribunal established under section 704 ITA 2007**

<i>1. Office held</i>	<i>2. Office or offices to be held</i>
Chairman of the tribunal appointed under section 704(1)(a) of the Income Taxes Act 2007(b)	Transferred-in judge of the Upper Tribunal
Other member of the tribunal appointed under section 704(1)(b) of the Income Taxes Act 2007	Transferred-in other member of the First-tier Tribunal

**Transitionals and savings**

6. Schedule 3 contains—

- (a) transitional provision, and
- (b) saving provision.

Signed by authority of the Lord Chancellor

xxxx  
Parliamentary Under-Secretary of State  
Ministry of Justice

Date

Date

xxxx  
Two of the Lords Commissioners of Her Majesty's Treasury

**SCHEDULE 1**

Article 3

**Consequential Amendments and Supplemental Provisions – Primary Legislation**

**Stamp Act 1891**

1. The Stamp Act 1891(c) is amended as follows.

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(a) 1988 c. 1.  
(b) 2007 c. 3.  
(c) (54 & 55 Vict. Chapter 38).

2. In section 13(4) (appeal against Commissioners' decision on adjudication)(a) for "Special Commissioners" substitute "First-tier Tribunal".

3.—(1) Section 13A(b) (appeal to the Special Commissioners) is amended as follows.

(2) In the heading for "Special Commissioners" substitute "First-tier Tribunal".

(3) Omit subsections (3) and (4).

(4) In subsection (5)—

(a) for "Special Commissioners" substitute "First-tier Tribunal";

(b) in paragraphs (a) and (b) omit "to them"; and

(c) in paragraphs (c) and (d)—

(i) omit "to them"; and

(ii) for "they consider" substitute "the tribunal considers".

(5) Omit subsection (6).

(6) For subsection (7) substitute—

"(7) 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 the penalty which has been determined under subsection (5), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(7A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under subsection (7) as it applies to the right of appeal under section 11(2) of that Act."

(7) In subsection (8)—

(a) for "court" substitute "Upper Tribunal"; and

(b) for "Special Commissioners" substitute "First-tier Tribunal".

4. In section 122(1) (definitions) at the end insert—

"The expression "tribunal" means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal".

## **Taxes Management Act 1970**

5. The Taxes Management Act 1970(c) is amended as follows.

6. Omit sections 4, 4A(d), 5 and 6(1) and (5).

7. In section 12B(4) (records to be kept for purposes of returns)(e) for "Commissioners" substitute "tribunal".

8.—(1) Section 19A (power to call for documents for purposes of certain enquiries)(f) is amended as follows.

(2) In subsection (5) for "Special Commissioners" substitute "tribunal".

(3) In subsection (9)—

(a) for "Commissioners" substitute "tribunal"; and

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(a) Section 13 was substituted by paragraph 2 of Schedule 12 to the Finance Act 1999 (c. 16).

(b) Sections 13A and 13B were inserted by section 109(3) of, and paragraph 2 of Schedule 12 to, the Finance Act 1999 (c. 16).

(c) 1970 c. 9.

(d) Section 4A was inserted by section 127 of, and paragraph 1 of Schedule 22 to, the Finance Act 1984 (c. 43)

(e) Section 12B was inserted by sections 196 and 199 of, and paragraph 3 of Schedule 19 to, the Finance Act 1994 (c. 9). Subsection (4) was amended by sections 103(7) and 105(6) of the Finance Act 1995 (c. 4).

(f) Section 19A was inserted by sections 187 and 199 of the Finance Act 1994. Subsections (5), (9) and (10) were amended by paragraph 3(2) of, and Schedule 19 to, the Finance Act 1996 (c. 8). Subsection (11) was substituted by paragraph 2 of Schedule 22 to the Finance Act 1996.

- (b) in paragraphs (a) and (b) omit “to them”.
- (4) In subsection (10) for “Commissioners confirm” substitute “tribunal confirms”.
- (5) In subsection (11)—
- (a) for “Commissioners” substitute “tribunal”; and
  - (b) for “(notwithstanding any provision having effect by virtue of section 56B of this Act)” substitute “(notwithstanding the provisions of sections 11 and 13 of the TCEA 2007).”.
- 9.**—(1) Section 20 (power to call for documents of taxpayer and others)(a) is amended as follows.
- (2) In subsection (7)—
- (a) in paragraph (a) for “a General or Special Commissioner” substitute “the tribunal”; and
  - (b) in paragraph (b) for “Commissioner to give his consent” substitute “tribunal is to give consent”.
- (3) In subsection (7AB)—
- (a) for “A Commissioner who has given his consent” substitute “A judge or other member of the tribunal involved in giving consent”; and
  - (b) for “the Commissioner” substitute “the judge or other member”.
- (4) In subsection (7AC) for “Commissioner gave his consent” substitute “tribunal gave consent”.
- (5) In subsection (8A)—
- (a) for “a Special Commissioner gives his consent” substitute “the tribunal gives consent”; and
  - (b) for “Special Commissioner is” substitute “tribunal is”.
- (6) In subsection (8B) for “Special Commissioners, who” substitute “tribunal, which”.
- (7) In subsection (8G)(b) for “Commissioner giving the required consent” substitute “tribunal”.
- (8) In subsection (8H)—
- (a) for “A General or Special Commissioner” substitute “The tribunal”; and
  - (b) omit “he is”.
- 10.**—(1) Section 20B (restrictions on powers under ss 20 and 20A)(b) is amended as follows.
- (2) In subsection (1B)—
- (a) for “a General or Special Commissioner” substitute “the tribunal”; and
  - (b) for “Commissioner is” substitute “tribunal is”.
- (3) In subsection (6)—
- (a) in paragraph (a) for “Commissioner giving consent” substitute “tribunal”;
  - (b) in paragraph (b) for “a General or Special Commissioner” substitute “the tribunal”; and
  - (c) in the words after paragraph (b) for “Commissioner” substitute “tribunal”.
- 11.** In section 20BB(2)(a) (falsification etc of documents)(c) for “a General or Special Commissioner” substitute “the tribunal”.
- 12.**—(1) Section 28ZA(d) (referral of questions during enquiry) is amended as follows.

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- (a) Section 20 was substituted by Schedule 6 to the Finance Act 1976 (c. 40). Subsections (7AB), (7AC) and (8G) and (8H) were inserted by section 255 of the Finance Act 1994. Subsections (8A) and (8B) were inserted by section 126(3) and (6) of the Finance Act 1988 (c. 39).
- (b) Section 20B was inserted by Schedule 6 to the Finance Act 1976. Subsection (1B) was inserted by section 144 of the Finance Act 1989 (c. 26).
- (c) Section 20BB was inserted by section 145 of the Finance Act 1989.
- (d) Sections 28ZA to 28ZE were inserted by section 88 of, and paragraph 6 of and Schedule 29 to, the Finance Act 2001(c. 9).

- (2) In subsection (1) for “Special Commissioners for their” substitute “tribunal for its”.
- (3) In subsection (2)—
- (a) omit paragraph (b); and
  - (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.
- (4) Omit subsection (3).
- 13.**—(1) Section 28ZB is amended as follows.
- (2) In subsection (1) omit “by notice in accordance with this section”.
- (3) Omit subsection (2).
- 14.** Omit section 28ZC.
- 15.** In section 28ZD(3)(a) (effect of referral on enquiry) for “Special Commissioners” substitute “tribunal”.
- 16.** In section 28ZE(1) (effect of determination) for “Special Commissioners” substitute “tribunal”.
- 17.**—(1) Section 28A(a) (completion of enquiry into personal or trustee return) is amended as follows.
- (2) In subsection (4) for “Commissioners” substitute “tribunal”.
- (3) For subsection (5) substitute—
- “(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.
- (4) In subsection (6)—
- (a) for “Commissioners hearing the application” substitute “tribunal”; and
  - (b) omit “they are”.
- 18.**—(1) Section 28B (completion of enquiry into partnership return) is amended as follows.
- (2) In subsection (5) for “Commissioners” substitute “tribunal”.
- (3) For subsection (6) substitute—
- “(6) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.
- (4) In subsection (7)—
- (a) for “Commissioners hearing the application” substitute “tribunal”; and
  - (b) omit “they are”.
- 19.** In section 31(2) (appeals: right of appeal)(b)—
- (a) at the beginning insert “If”;
  - (b) after “self-assessment” insert “is”; and
  - (c) for “shall not be heard and determined” substitute “none of the steps mentioned in section 49A(2)(a) to (c) may be taken in relation to the appeal”.
- 20.** Omit section 31A(6).
- 21.** Omit sections 31B to 31D.
- 22.** For section 32(2) (double assessment) substitute—
- “(2) An appeal may be brought against the refusal of a claim under this section.
- (3) Notice of appeal under subsection (2) must be given—

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(a) Sections 28A and 28B were substituted by paragraph 8 of Schedule 29 to the Finance Act 2001 (c. 9).  
(b) Sections 31 to 31D were substituted for section 31 by paragraph 11 of Schedule 29 to the Finance Act 2001.

- (a) in writing;
- (b) within 30 days after the day on which notice of the refusal is given;
- (c) to the officer of Revenue and Customs by whom that notice was given.”.

23. For section 33(4) (error or mistake)(a) substitute —

“(4) If any appeal is brought from the decision of the Board on the claim, the tribunal shall determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section.

(4A) The determination of the tribunal of an appeal under subsection (4) shall be final and conclusive (notwithstanding the provisions of sections 11 and 13 of the TCEA 2007) except on a point of law arising in connection with the computation of profits.”.

24.—(1) Section 33A (error or mistake in partnership return)(b) is amended as follows.

(2) In subsection (7)—

- (a) for “Special Commissioners” substitute “tribunal”; and
- (b) omit “hear and”.

(3) In subsection (8)—

- (a) for “Special Commissioners” substitute “tribunal”; and
- (b) for “any provision having effect by virtue of section 56B of this Act” substitute “the provisions of sections 11 and 13 of the TCEA 2007.”.

25. Omit sections 44 to 46C.

26. For the heading preceding section 48 substitute “*Appeals*”.

27. Before section 48 insert—

**“47C. Meaning of tribunal**

In this Act “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

28. For section 48 (application to appeals and other proceedings) substitute—

**“48 Application to appeals and other proceedings**

(1) In the following provisions of this Part of this Act, unless the context otherwise requires—

- (a) “appeal” means any appeal under the Taxes Acts;
- (b) a reference to notice of appeal given, or to be given, to HMRC is a reference to notice of appeal given, or to be given, under any provision of the Taxes Acts.

(2) In the case of —

- (a) an appeal other than an appeal against an assessment, the following provisions of this Part of this Act shall, in their application to the appeal, have effect subject to any necessary modifications, including the omission of section 56 below;
- (b) any proceedings other than an appeal which, under the Taxes Acts, are to be subject to the relevant provisions of this Part of this Act, the relevant provisions—
  - (i) shall apply to the proceedings as they apply to appeals;
  - (ii) but shall, in that application, have effect subject to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56 below.

(a) Section 33(4) was substituted by S.I. 1994/1813.

(b) Section 33A was inserted by sections 196 and 199 of, and paragraph 9 of Schedule 19 to, the Finance Act 1994 (c. 9).

(3) In subsection (2), a reference to the relevant provisions of this Part of this Act is a reference to the following provisions of this Part, except sections 49A to 49I.”.

29. For section 49 (proceedings brought out of time) substitute—

**“49 Late notice of appeal**

(1) This section applies in a case where—

- (a) notice of appeal may be given to HMRC, but
- (b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—

- (a) HMRC agree, or
- (b) where HMRC do not agree, the tribunal gives permission.

(3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.

(4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

(5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.

(6) Condition C is that HMRC are satisfied that request under subsection (4) was made without unreasonable delay after the reasonable excuse ceased.

(7) If a request of the kind referred to in subsection (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.

(8) In this section “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this section).”.

30. After section 49 insert—

**“49A Appeal: HMRC review or determination by tribunal**

(1) This section applies if notice of appeal has been given to HMRC.

(2) In such a case—

- (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 49B),
- (b) HMRC may notify the appellant of an offer to review the matter in question (see section 49C), or
- (c) the appellant may notify the appeal to the tribunal (see section 49D).

(3) See sections 49G and 49H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

(4) This section does not prevent the matter in question from being dealt with in accordance with section 54 (settling appeals by agreement).

**49B Appellant requires review by HMRC**

(1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.

(2) HMRC must, within the relevant period, notify the appellant of HMRC’s view of the matter in question.

(3) HMRC must review the matter in question in accordance with section 49E.

(4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—



- (a) the appellant has already given a notification under this section in relation to the matter in question,
  - (b) HMRC have given a notification under section 49C in relation to the matter in question, or
  - (c) the appellant has notified the appeal to the tribunal under section 49D.
- (5) In this section “relevant period” means—
- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
  - (b) such longer period as is reasonable.

**49C HMRC offer review**

(1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.

(2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC’s view of the matter in question.

(3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 49E.

(4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question is to be treated as if it were contained in an agreement in writing under section 54(1) for the settlement of the matter.

(5) The appellant may not give notice under section 54(2) (desire to repudiate or resile from agreement) in a case where subsection (4) applies.

(6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49H.

(7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this section in relation to the matter in question,
- (b) the appellant has given a notification under section 49B in relation to the matter in question, or
- (c) the appellant has notified the appeal to the tribunal under section 49D.

(8) In this section “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

**49D Notifying appeal to the tribunal**

(1) This section applies if notice of appeal has been given to HMRC.

(2) The appellant may notify the appeal to the tribunal.

(3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

(4) Subsections (2) and (3) do not apply in a case where—

- (a) HMRC have given a notification of their view of the matter in question under section 49B, or
- (b) HMRC have given a notification under section 49C in relation to the matter in question.

(5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 49G or 49H.

#### **49E Nature of review etc**

(1) This section applies if HMRC are required by section 49B or 49C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in deciding the matter in question, and
- (b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—

- (a) the period of 45 days beginning with the relevant day, or
- (b) such other period as may be agreed.

(7) In subsection (6) "relevant day" means—

- (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC's view of the matter in question,
- (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant's acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that HMRC's view of the matter in question (see sections 49B(2) and 49C(2)) is upheld.

(9) If subsection (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

#### **49F Effect of conclusions of review**

(1) This section applies if HMRC give notice of the conclusions of a review (see section 49E(6) and (9)).

(2) The conclusions are to be treated as if they were an agreement in writing under section 54(1) for the settlement of the matter in question.

(3) The appellant may not give notice under section 54(2) (desire to repudiate or resile from agreement) in a case where subsection (2) applies.

(4) Subsection (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49G.

#### **49G Notifying appeal to tribunal after review concluded**

(1) This section applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with section 49E, or
- (b) the period specified in section 49E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The appellant may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this section “post-review period” means—

(a) in a case falling within subsection (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 49E(6), or

(b) in a case falling within subsection (1)(b), the period that—

(i) begins with the day following the last day of the period specified in section 49E(6), and

(ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 49E(9).

#### **49H Notifying appeal to tribunal after review offered but not accepted**

(1) This section applies if—

(a) HMRC have offered to review the matter in question (see section 49C), and

(b) the appellant has not accepted the offer.

(2) The appellant may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this section “acceptance period” has the same meaning as in section 49C.

#### **49I Interpretation of sections 49A to 49H**

(1) In sections 49A to 49H—

(a) “matter in question” means the matter to which an appeal relates;

(b) a reference to a notification is a reference to a notification in writing.

(2) In sections 49A to 49H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

(a) notification of HMRC’s view under section 49B(2);

(b) notification by HMRC of an offer of review (and of their view of the matter) under section 49C;

(c) notification of the conclusions of a review under section 49E(6); and

(d) notification of the conclusions of a review under section 49E(9).

(3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”

**31.—**(1) Section 50 (procedure)(a) is amended as follows.

(2) In subsection (6) for the words before paragraph (a) substitute—

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(a) Section 50 has been relevantly amended as follows. Subsections (1) to (5), and part of subsection (6), were repealed by S.I. 1994/1813. Subsections (6) and (7) were substituted by paragraph 17(1) of Schedule 19 to the Finance Act 1994 (c. 9). Parts of subsections (6) and (7) were repealed by the relevant entries in Part 2(13) of Schedule 33 to the Finance Act 2001 (c. 9). Subsection (7A) was inserted by paragraph 7 of Schedule 19 to the Finance Act 1994, and amended by paragraph 30 of Schedule 29 to the Finance Act 2001. Subsection (8) was inserted by section 67(2) and (3) of the Finance (No. 2) Act 1975 (c. 45) and amended by paragraph 17 of Schedule 19 to the Finance Act 1994. Paragraph 17 of that Schedule also inserted subsection (9), and paragraph 30 of Schedule 29 to the Finance Act 2001 amended that subsection.

“(6) If, on an appeal notified to the tribunal, the tribunal decides—”.

(3) In subsection (7) for “If, on an appeal, it appears to the Commissioners” substitute “If, on an appeal notified to the tribunal, the tribunal decides”.

(4) In subsection (7A)—

(a) for “If, on an appeal, it appears to the Commissioners” substitute “If, on an appeal notified to the tribunal, the tribunal decides”, and

(b) for “appears to them” substitute “the tribunal decides is”.

(5) In subsection (8)—

(a) after “appeal” (in each place) insert “notified to the tribunal”,

(b) for “it appears to the Commissioners” substitute “the tribunal decides”,

(c) for “they may” substitute “the tribunal may”.

(6) After subsection (9) add—

“(10) Where an appeal is notified to the tribunal, the decision of the tribunal on the appeal is final and conclusive.

(11) But subsection (10) is subject to—

(a) sections 9 to 14 of the TCEA 2007,

(b) Tribunal Procedure Rules, and

(c) the Taxes Acts.”.

**32.** Omit section 53.

**33.** In section 54(1) (settling of appeals by agreement) for “Commissioners” (in each place) substitute “tribunal”.

**34.—**(1) Section 55 (recovery of tax not postponed)(a) is amended as follows.

(2) Subject to the following provisions of this paragraph for “Commissioners” (in each place) substitute “tribunal”.

(3) For subsection (3) substitute—

“(3) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

(a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;

(b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.

An application under paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.”.

(4) In subsection (3A) after “closure notice” insert “, or where the notice of appeal has been given after the relevant time limit (see section 49)”.

(5) For subsection (4) substitute—

“(4) If, after any determination of the amount of tax the payment of which should be so postponed—

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(a) Section 55 has been relevantly amended as follows. It was substituted by section 45 of the Finance (No 2) Act 1975 (c. 45). Subsection (3A) was inserted by section 68(2) to (4) of the Finance Act 1982 (c. 39). Subsection (6) was amended by S.I. 1994/1815. Subsection (6A) was inserted by paragraph 8 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1). Subsection (7) was amended by section 104(2) and (4) of the Finance Act 1990 (c. 29). Subsection (10B) was inserted by section 88 of, and paragraph 31 of Schedule 29 to, the Finance Act 2001 (c. 9).

- (a) there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, and
  - (b) the parties cannot agree on a revised determination, the party mentioned in paragraph (a) may, at any time before the determination of the appeal, apply to the tribunal for a revised determination of that amount.”.
- (6) For subsection (5) substitute—
- “(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.
- (7) In subsection (6) omit “to the Commissioners, having regard to the representations made and any evidence adduced.”
- (8) For subsection (6A) substitute—
- “(6A) Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007, the decision of the tribunal shall be final and conclusive.”.
- (9) For subsection (7) substitute—
- “(7) If the appellant and HMRC reach an agreement as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the agreement shall not have effect unless—
- (a) the agreement is in writing, or
  - (b) the fact that the agreement has been reached, and the terms of the agreement, are confirmed by notice in writing given—
    - (i) by the appellant to HMRC, or
    - (ii) by HMRC to the appellant.”
- (10) Omit subsection (8).
- (11) After subsection (8) insert—
- “(8A) Where an agreement is made which has effect under subsection (7), references in subsection (6)(a) and (b) above to the date of the determination shall be construed as references to the date that the agreement is confirmed in writing.”.
- (12) In subsection (9)(a)(i) for “the inspector issues” substitute “HMRC issue”.
- (13) Omit subsection (10).
- (14) For subsection (10B) substitute—
- “(10B) References in this section to agreements between an appellant and HMRC, and to the giving of notices between the parties, include references to agreements, and the giving of notices, between a person acting on behalf of the appellant in relation to the appeal and HMRC.”.
- (15) Omit subsection (11).
- 35. For section 56 (statement of case for opinion of the High Court) substitute—**
- “56. Payment of tax where there is a further appeal**
- (1) This section applies if a party to an appeal against an assessment (the “initial appeal”) makes a further appeal.
- (2) Tax is payable or repayable in accordance with the determination of the court or tribunal on the initial appeal, despite the further appeal having been made.
- (3) But in a case where the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—
- (a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and

- (b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.”.

**36.** Omit sections 56A to 56D(a).

**37.—**(1) Section 57 (regulations about appeals)(b) is amended as follows.

(2) In subsection (1)—

- (a) for “The Board may make regulations” substitute “The Commissioners for Her Majesty’s Revenue and Customs may make regulations”;
- (b) in paragraph (b) for “to appear on” substitute “to be parties to”; and
- (c) in paragraph (e) for “an inspector or other officer of the Board” (in both places) substitute “an officer of Revenue and Customs”.

(3) After subsection (1) insert—

“(1A) Regulations under this section may not make provision for the practice and procedure to be followed in the First-tier Tribunal or Upper Tribunal.”.

(4) In subsection (3)—

- (a) omit paragraph (a); and
- (b) in paragraph (c) for “section 46B, 46C or 46D of this Act” substitute “section 46D of this Act or Tribunal Procedure Rules”.

**38.** Omit section 58 and the heading “*Northern Ireland*” before it.

**39.—**(1) Section 59C(9) (surcharges on unpaid income tax and capital gains tax)(c) is amended as follows.

- (2) After “subsection (7) above” insert “that is notified to the tribunal”.
- (3) For “Commissioners” substitute “tribunal”.
- (4) In subsections (9)(a) and (b) omit the words “to them”.

**40.—**(1) Section 59DA (claim for repayment in advance of liability being established)(d) is amended as follows.

(2) In subsection (4) for “Commissioners to whom the appeal stands referred” substitute “tribunal”.

(3) For subsection (5) substitute—

“(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.

**41.—**(1) Section 93 (failure to make return for income tax and capital gains tax)(e) is amended as follows.

(2) In subsection (3)—

- (a) for “them” substitute “it”; and
- (b) for “General or Special Commissioners so direct” substitute “the tribunal so directs”.

(3) In subsection (8)—

- (a) after “above” insert “that is notified to the tribunal”;
- (b) for “Commissioners” substitute “tribunal”; and

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(a) Section 56A was substituted by S.I. 1994/1813. Sections 56B to 56D were inserted by paragraphs 1 and 4 of Schedule 16 to the Finance (No. 2) Act 1992 (c. 48).

(b) Section 57(3)(c) has been amended by paragraph 8 of Schedule 22 to the Finance Act 1996 (c. 8).

(c) Section 59C was inserted by sections 194 and 199 of the Finance Act 1994 (c. 9).

(d) Section 59DA was inserted by paragraph 29 of Schedule 19 to the Finance Act 1998 (c. 36).

(e) Section 93 was substituted by sections 196 and 199 of, and paragraph 25 of Schedule 19 to, the Finance Act 1994 (c. 9).

(c) in paragraphs (a) and (b) omit “to them”.

**42.—**(1) Section 93A (failure to make partnership return)(a) is amended as follows.

(2) In subsection (3)—

(a) for “them” substitute “it”;

(b) for “General or Special Commissioners so direct” substitute “tribunal so directs”.

(3) In subsection (7)—

(a) after “above” insert “that is notified to the tribunal”;

(b) for “Commissioners” substitute “tribunal”; and

(c) in paragraphs (a) and (b) omit “to them”.

**43.** In section 97AA(2)(b) (failure to produce documents under section 19A)(b) for “Commissioners” substitute “tribunal”.

**44.** In section 98B(2B) (European economic interest groupings)(c)—

(a) for “them” substitute “it”; and

(b) for “General or Special Commissioners so direct” substitute “the tribunal so directs”.

**45.—**(1) Section 100B (appeals against penalty determination)(d) is amended as follows.

(2) In subsection (1) after “assessment to tax” insert “, except that references to the tribunal shall be taken to be references to the First-tier Tribunal”;

(3) In subsection (2)—

(a) for “Commissioners” (in each place) substitute “First-tier Tribunal”;

(b) omit “to them” (in each place); and

(c) in subsections (2)(b)(iii) and (iv) for “as they consider” substitute “as it considers”.

(4) For subsection (3) substitute—

“(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.”.

**46.—**(1) Section 100C (penalty proceedings before Commissioners) is amended as follows.

(2) In the heading for “Commissioners” substitute “First-tier Tribunal”.

(3) In subsection (1) for “General or Special Commissioners” substitute “First-tier Tribunal”.

(4) Omit subsection (1A).

(5) For subsection (2) substitute—

“(2) The person liable to the penalty shall be a party to the proceedings.”.

(6) In subsection (3) for “Commissioners” substitute “First-tier Tribunal”.

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(a) Section 93A was inserted by sections 196 and 199 of, and paragraph 25 of Schedule 19 to, the Finance Act 1994. Subsections (3) and (7) were amended by section 123(8) to (11) of the Finance Act 1996 (c. 8).

(b) Section 97AA was inserted by sections 196 and 199 of, and paragraph 29 of Schedule 19 to, the Finance Act 1994.

(c) Section 98B was inserted by paragraphs 3 and 5 of Schedule 11 to the Finance Act 1990 (c. 29) and subsection (2B) was substituted by sections 196, 199 and paragraph 30 of Schedule 19 to the Finance Act 1994.

(d) Sections 100B and 100C were inserted by section 167 to the Finance Act 1989 (c. 26). Section 100B(2) was amended by sections 196 and 199 of, and paragraph 31 of Schedule 19 to, the Finance Act 1994.

(7) For subsection (4) substitute—

“(4) 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 determination of a penalty in proceedings under subsection (1), 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.

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

(8) In subsection (5) for “court”, in each place, substitute “Upper Tribunal”.

**47.** In section 101 (evidence for the purposes of proceedings relating to penalties)(a) for “any Commissioners on appeal” substitute “the tribunal on an appeal notified to it”.

**48.** In section 103(1) and (4) (time limits for penalties)(b) for “Commissioners” substitute “tribunal”.

**49.**—(1) Section 112 (loss, destruction or damage to assessments, returns etc) is amended as follows.

(2) In subsection (1)—

(a) for “the Commissioners, inspectors, collectors and other officers having powers in relation to tax” substitute “HMRC”; and

(b) for “Commissioners having jurisdiction in the case” substitute “tribunal”.

(3) Omit subsection (2).

**50.**—(1) Section 115 (delivery and service of documents) is amended as follows.

(2) In subsection (2) for “by the Board, by any officer of the Board, or by or on behalf of any body of Commissioners,” substitute “by HMRC”.

(3) Omit subsections (4) and (5).

**51.**—(1) Section 118 (interpretation) is amended as follows.

(2) In subsection (1) omit the definitions of—

(a) “the General Commissioners Regulations”; and

(b) “the Special Commissioners Regulations”.

(3) In subsection (1) insert the following definitions at the appropriate places—

““HMRC” means Her Majesty’s Revenue and Customs;”;

““the TCEA 2007” means the Tribunals, Courts and Enforcement Act 2007;”;

““the tribunal” is to be read in accordance with section 47C;”.

(4) In subsection (2) for “Commissioners” substitute “tribunal”.

(5) In subsection (4) for “any Commissioners on appeal” substitute “the tribunal on an appeal notified to it”.

**52.** Omit Schedule 1.

**53.** Schedule 1A (claims etc not included in returns)(c) is amended as follows.

**54.** In paragraph 2A(3)(d) for “Commissioners” substitute “tribunal”.

**55.**—(1) Paragraph 6A(a) is amended as follows—

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(a) Section 101 was substituted by paragraph 39 of, and Schedule 19 to, the Finance Act 1998 (c. 36).

(b) Section 103 was substituted by section 169 to the Finance Act 1989 (c. 26).

(c) Schedule 1A was inserted by sections 196 and 199 of, and paragraph 35 of Schedule 19 to, the Finance Act 1994 (c. 9).

(d) Paragraph 2A was inserted by section 107(11) of, and paragraph 2 of Schedule 20 to, the Finance Act 1995 (c. 4).



- (2) In sub-paragraph (3)—
  - (a) for the words before paragraph (a) substitute—
    - “(3) If an appeal is under section 49D, 49G or 49H, the tribunal—”;
  - (b) in paragraph (a), for “to them not” substitute “not to be”; and
  - (c) in paragraph (b), for “to them are” substitute “to be”.
- (3) In sub-paragraph (4), for “Commissioners” substitute “tribunal”.
- (4) For sub-paragraph (5) substitute “Notwithstanding the provisions of sections 11 and 13 of the TCEA the decision of the tribunal shall be final and conclusive.”.

**56.**—(1) Paragraph 7(b) is amended as follows.

- (2) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.
- (3) For sub-paragraph (6) substitute—
  - “(6) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.
- (4) In sub-paragraph (7)—
  - (a) for “Commissioners hearing the application” substitute “tribunal”; and
  - (b) omit “they are”.

**57.**—(1) Paragraph 9(c) is amended as follows.

- (2) In sub-paragraph (3)—
  - (a) for “On” substitute “In the case of”; and
  - (b) for “the Commissioners” substitute “if an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal”.
- (3) In sub-paragraph (4) for “the Commissioners” substitute “HMRC or by the tribunal”.
- (4) In sub-paragraph (5)—
  - (a) for “appeal, it appears to the Commissioners” substitute “an appeal notified to the tribunal, the tribunal decides”; and
  - (b) omit “to them”.

**58.** Omit paragraphs 10 and 11.

**59.** Omit Schedule 3.

**60.** Schedule 3A (electronic lodgement of tax returns etc)(d) is amended as follows.

**61.**—(1) Paragraph 4 is amended as follows.

- (2) In sub-paragraph (6) omit “to the Special Commissioners”,
- (3) In sub-paragraph (8)—
  - (a) for “The Special Commissioners” substitute “If an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal”; and
  - (b) omit “to them”.
- (4) In sub-paragraph (9)—
  - (a) for “Special Commissioners allow” substitute “tribunal allows”; and
  - (b) for “they” substitute “it”.

**62.** In paragraph 11(6) omit “the General or Special Commissioners or”.

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(a) Paragraph 6A was inserted by paragraph 142 of Schedule 19 to the Finance Act 1998 (c. 26).  
 (b) Paragraph 7 was substituted by section 88 of, and paragraph 10 of Schedule 29 to, the Finance Act 2001 (c. 9).  
 (c) Paragraph 9(3) was amended and sub-paragraph (5) inserted by paragraph 10 of Schedule 19 to the Finance Act 1996 (c. 8).  
 (d) Schedule 3A was inserted by paragraph 2 of Schedule 28 to the Finance Act 1995 (c. 4).

### **Courts Act 1971**

- 63.** In Part 1A of Schedule 2 to the Courts Act 1971(a) omit the entries relating to—
- (a) President of Value Added Tax Tribunals or chairman of such a tribunal appointed under Schedule 8 to the Value Added Tax Act 1983; and
  - (b) Special Commissioner appointed under section 4 of the Taxes Management Act 1970.

### **Finance Act 1973**

- 64.** The Finance Act 1973(b) is amended as follows.
- 65.** Omit section 41.

### **Finance Act 1975**

- 66.** The Finance Act 1975(c) is amended as follows.
- 67.** Omit section 57.

### **Oil Taxation Act 1975**

- 68.** The Oil Taxation Act 1975(d) is amended as follows.
- 69.** Schedule 2 (management and collection of petroleum revenue tax) is amended as follows.
- 70.**—(1) The table in paragraph 1(e) is amended as follows.
- (2) Omit the entries for sections 4, 46A, 53, 56B, 56C, 56D, 58(2B), 58(2C) and 58(3).
  - (3) After the entry for section 36 insert “47C” in the first column and “—” in the second column.
  - (4) In the entry for section 49(1) omit “(1)”.
  - (5) For “56A” substitute “56”.
  - (6) In the entry for section “100C(1)”—
    - (a) substitute “100C”;
    - (b) for the second column of the entry substitute “In subsection (1) omit the words after “penalty””.
  - (7) Omit the entries for section 100C(2) to (5).
  - (8) In the entries for section 103(1) and (4) for “Special Commissioners” substitute “tribunal”.
- 71.** In paragraph 3(1)(b) for “Commissioners before whom” substitute “tribunal before which”.
- 72.** In paragraph 6(1)(b) for “Commissioners before whom” substitute “the tribunal before which”.
- 73.** In paragraph 8(1)(c)(f) for “Special Commissioners” substitute “tribunal”.
- 74.**—(1) Paragraph 14(g) is amended as follows.
- (2) In sub-paragraph (1)—

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(a) 1971 c.23. Schedule 1A was inserted by paragraph 31 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41).

(b) 1973 c. 51.

(c) 1975 c. 7.

(d) 1975 c. 22.

(e) Paragraph 1 has been relevantly amended as follows. The entry relating to 100C was substituted by section 109 of the Finance Act 1991 (c. 31) and the entries relating to sections 46A and 56A to D were inserted by paragraph 6 of schedule 16 to the Finance Act 1992 (c. 20).

(f) Paragraph 8(1) was amended by section 187(1) of the Finance Act 1993 (c. 34).

(g) Paragraph 14 was amended by section 130 of the Finance Act 1976 (c. 40).

- (a) omit “to the Special Commissioners”; and
  - (b) for “the Board” substitute “HMRC”.
- (3) For sub-paragraph (2) substitute—
- “(2) The notice of appeal must specify the grounds of appeal.”
- (4) In sub-paragraph (8) for “the Board”, in both places, substitute “HMRC”.
- (5) In sub-paragraph (9)—
- (a) for “the Board” (in both places) substitute “HMRC”;
  - (b) for “Special Commissioners” substitute “tribunal”; and
  - (c) for “Commissioners” substitute “tribunal”.
- (6) In sub-paragraph (10)—
- (a) for “, on the appeal,” substitute “the appeal that is notified to the tribunal and”;
  - (b) for “a majority of the Commissioners present at the hearing” substitute “the tribunal”; and
  - (c) for “Commissioners”, in both of the other places, substitute “tribunal”.
- (7) For sub-paragraph (11) substitute “Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007 the decision of the tribunal shall be final and conclusive.”

**75.** After paragraph 14 insert—

*“Appeal: HMRC review or determination by tribunal*

**14A**—(1) This paragraph applies if notice of appeal has been given to HMRC.

(2) In such a case—

- (a) the participator may notify HMRC that the participator requires HMRC to review the matter in question (see paragraph 14B),
- (b) HMRC may notify the participator of an offer to review the matter in question (see paragraph 14C), or
- (c) the participator may notify the appeal to the tribunal (see paragraph 14D).

(3) See paragraphs 14G and 14H for provision about notifying appeals to the tribunal after a review has been required by the participator or offered by HMRC.

(4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 14(9).

*Participator requires review by HMRC*

**14B**—(1) Sub-paragraphs (2) and (3) apply if the participator notifies HMRC that the participator requires HMRC to review the matter in question.

(2) HMRC must, within the relevant period, notify the participator of HMRC’s view of the matter in question.

(3) HMRC must review the matter in question in accordance with paragraph 14E.

(4) The participator may not notify HMRC that the participator requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—

- (a) the participator has already given a notification under this paragraph in relation to the matter in question,
- (b) HMRC have given a notification under paragraph 14C in relation to the matter in question, or
- (c) the participator has notified the appeal to the tribunal under paragraph 14D.

(5) In this paragraph “relevant period” means—

- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the participator, or

- (b) such longer period as is reasonable.

*HMRC offer review*

**14C**—(1) Sub-paragraphs (2) to (5) apply if HMRC notify the participator of an offer to review the matter in question.

(2) When HMRC notify the participator of the offer, HMRC must also notify the participator of HMRC's view of the matter in question.

(3) If, within the acceptance period, the participator notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 14E.

(4) If the participator does not give HMRC such a notification within the acceptance period, HMRC's view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 14(9) for the settlement of that matter.

(5) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the participator notifies the appeal to the tribunal under paragraph 14H.

(6) HMRC may not notify the participator of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this paragraph in relation to the matter in question,
- (b) the participator has given a notification under paragraph 14B in relation to the matter in question, or
- (c) the participator has notified the appeal to the tribunal under paragraph 14D.

(7) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the participator of the offer to review the matter in question.

*Notifying appeal to the tribunal*

**14D**—(1) This paragraph applies if notice of appeal has been given to HMRC.

(2) The participator may notify the appeal to the tribunal.

(3) If the participator notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

(4) Sub-paragraphs (2) and (3) do not apply in a case where—

- (a) HMRC have given a notification of their view of the matter in question under paragraph 14B, or
- (b) HMRC have given a notification under paragraph 14C in relation to the matter in question.

(5) In a case falling within sub-paragraph (4)(a) or (b), the participator may notify the appeal to the tribunal, but only if permitted to do so by paragraph 14G or 14H.

*Nature of review etc*

**14E**—(1) This paragraph applies if HMRC are required by paragraph 14B or 14C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in deciding the matter in question, and
- (b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the participator at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must notify the participator of the conclusions of the review and their reasoning within—

- (a) the period of 45 days beginning with the relevant day, or
- (b) such other period as may be agreed.

(7) In sub-paragraph (6) "relevant day" means—

- (a) in a case where the participator required the review, the day when HMRC notified the participator of HMRC's view of the matter in question,
- (b) in a case where HMRC offered the review, the day when HMRC received notification of the participator's acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in sub-paragraph (6), the review is to be treated as having concluded that HMRC's view of the matter in question (see paragraphs 14B(2) and 14C(2)) is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify the participator of the conclusion which the review is treated as having reached.

#### *Effect of conclusions of review*

**14F**—(1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 14E(6) and (9)).

(2) The conclusions are to be treated as if they were an agreement in writing under paragraph 14(9) for the settlement of the matter in question.

(3) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the participator notifies the appeal to the tribunal under paragraph 14G.

#### *Notifying appeal to tribunal after review concluded*

**14G**—(1) This paragraph applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 14E, or
- (b) the period specified in paragraph 14E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The participator may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the participator may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the participator notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this paragraph "post-review period" means—

- (a) in a case falling within sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 14E(6), or
- (b) in a case falling within sub-paragraph (1)(b), the period that—
  - (i) begins with the day following the last day of the period specified in paragraph 14E(6), and

- (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with paragraph 14E(9).

*Notifying appeal to tribunal after review offered but not accepted*

**14H**—(1) This paragraph applies if—

- (a) HMRC have offered to review the matter in question (see paragraph 14C), and
- (b) the participator has not accepted the offer.

(2) The participator may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the participator may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the participator notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this paragraph “acceptance period” has the same meaning as in paragraph 14C.

*Interpretation of paragraphs 14A to 14H*

**14I**—(1) In paragraphs 14A to 14H—

- (a) “matter in question” means the matter to which an appeal relates;
- (b) a reference to a notification is a reference to a notification in writing.

(2) In paragraphs 14A to 14H, a reference to the participator includes a person acting on behalf of the participator except in relation to—

- (a) notification of HMRC’s view under paragraph 14B(2);
- (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 14C;
- (c) notification of the conclusions of a review under paragraph 14E(6); and
- (d) notification of the conclusions of a review under paragraph 14E(9).

(3) But if a notification falling within sub-paragraph (2) is given to the participator, a copy of the notification may also be given to a person acting on behalf of the participator.”.

**76.** Schedule 5 (allowance of expenditure) is amended as follows.

**77.**—(1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (1)—

- (a) after “person may” insert “appeal”; and
- (b) omit “appeal to the Special Commissioners”.

(3) In sub-paragraph (2)—

- (a) after “On an appeal” insert “that is notified to the tribunal”; and
- (b) for “appear and be heard” substitute “be a party”.

(4) In sub-paragraph (3) after “any time” insert “before it is notified to the tribunal”.

(5) In sub-paragraph (4)—

- (a) after “On an appeal” insert “that is notified to the tribunal”; and
- (b) for “Special Commissioners” substitute “tribunal”.

(6) After sub-paragraph (4) insert—

“(5) The provisions of paragraphs 14A to 14I of Schedule 2(a) shall apply to appeals under this paragraph subject to any necessary modifications.”.

**78.** In paragraph 6(1) and (2) for “Special Commissioners” substitute “tribunal”.

**79.**—(1) Paragraph 7 is amended as follows.

(2) In sub-paragraph (1)—

(a) after “Where” insert “;”; and

(b) for “the Special Commissioners determine” substitute “that is notified to the tribunal, the tribunal determines”.

(3) In sub-paragraph (3) for “Special Commissioners” substitute “tribunal”.

**80.**—(1) Paragraph 8(b) is amended as follows.

(2) For sub-paragraph (1)(a) substitute—

“(a) an appeal is made against a determination by the tribunal on an appeal under paragraph 5 above; and”

(3) In sub-paragraph (1)(b) for “Special Commissioners” substitute “tribunal”.

(4) In sub-paragraph (5) after “court” add “or the tribunal”.

**81.**—(1) Paragraph 9(c) is amended as follows.

(2) In sub-paragraph (3) omit “to the Special Commissioners”.

(3) In sub-paragraph (5) after “any time” insert “before it is notified to the tribunal”.

(4) In sub-paragraph (7) for “Special Commissioners” substitute “tribunal”.

(5) In sub-paragraph (8)—

(a) after “On an appeal” insert “that is notified to the tribunal”; and

(b) for “Special Commissioners” substitute “tribunal”.

(6) In sub-paragraph (10)(a) omit “to the Special Commissioners”.

(7) In sub-paragraph (10)(b) for “Special Commissioners” substitute “tribunal”.

**82.** After paragraph 9 insert—

“(10) In this Schedule “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**83.**—(1) Schedule 6 (allowance of expenditure on claim by participator) is amended as follows.

(2) In the table in paragraph 2, after the entry for paragraph 5(4) of Schedule 5 insert “5(5)” in the first column and “—” in the second column.

**84.**—(1) Schedule 7 (allowance of abortive exploration expenditure) is amended as follows.

(2) In the table in paragraph 1(3), after the entry for paragraph 5(4) of Schedule 5 insert “5(5)” in the first column and “—” in the second column.

**85.**—(1) Paragraph 3 of Schedule 8 (allowance of unrelievable field loss) is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

(3) In sub-paragraph (2) after “any time” insert “before it is notified to the tribunal”.

(4) After sub-paragraph (2) insert—

“(3) The provisions of paragraphs 14A to 14I of Schedule 2(d) shall apply to appeals under this paragraph subject to any necessary modifications.”.

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(a) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(b) Sub-paragraph (1) of paragraph 8 was amended by regulation 2(1) of, and paragraph 19 of Schedule 1 to, S.I. 1994/1813.

(c) Paragraph 9 was inserted by section 40(1) of the Finance Act 1983 (c. 28).

(d) Paragraphs 14A to 14I were inserted by paragraph 75 of this Order.

### **House of Commons Disqualification Act 1975**

**86.**—(1) Schedule 1 to the House of Commons Disqualification Act 1975(a) (offices disqualifying for membership) is amended as follows.

(2) In Part 1 (judicial offices) omit the entry relating to a Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970.

(3) In Part 3 (other disqualifying offices) omit the entries relating to—

- (a) Chairman of the tribunal constituted under section 706 of the Income and Corporation Taxes Act 1988 or section 704 of the Income Tax Act 2007; and
- (b) President or Vice-President of Value Added Tax Tribunals or full-time chairman of value added tax tribunals.

### **Northern Ireland Assembly Disqualification Act 1975**

**87.** In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(b) (offices disqualifying for membership: bodies of which all members are disqualified) omit the entry relating to a Value Added Tax Tribunal.

### **Customs and Excise Management Act 1979**

**88.** The Customs and Excise Management Act 1979(c) is amended as follows.

**89.** In section 1 (interpretation) after the definition of “transit shed” add—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

**90.**—(1) Section 94(4B) (deficiency in warehoused goods)(d) is amended as follows.

(2) For paragraph (a) substitute—

“(a) the period of 30 days for accepting an offer of review under section 15C of the Finance Act 1994 or for appealing against the decision under section 16 of that Act has expired;”.

(3) In paragraph (b) for “section 15(2)” substitute “section 15F(8)”.

(4) In paragraph (c) for “the final result of any further appeal” substitute “the final result of any appeal under section 16 of that Act, or of any further appeal,”.

**91.** In section 170A(2) (offence of handling goods subject to unpaid excise duty)(e) for “a VAT and duties tribunal” substitute “the tribunal”.

### **Tobacco Products Duty Act 1979**

**92.** The Tobacco Products Duty Act 1979(f) is amended as follows.

**93.**—(1) Section 7C (penalty for facilitating evasion: penalty notice)(g) is amended as follows.

(2) For subsections (3) to (5) substitute—

“(3) Sections 13A to 16 of the Finance Act 1994 apply to a decision to issue a penalty notice as they apply to the decisions mentioned in section 13A(2)(a) to (h) of that Act.”.

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(a) 1975 c. 24. In part 3 the entry relating to the “Chairman of the tribunal constituted under section 706 of the Income and Corporation Taxes Act 1988” was amended by paragraph 267 of Schedule 1 to the Income Tax Act 2007 (c. 3).  
(b) 1975 c. 25.  
(c) 1979 c. 2.  
(d) Subsection (4B) was inserted by paragraph 5 of Schedule 6 to the Finance Act 1997 (c. 16).  
(e) Section 170A was inserted by section 3 of, and paragraph 8 of Schedule 2 to, the Finance (No 2) Act 1992 (c. 48) and amended by the Finance Act 1994 (c. 9).  
(f) 1979 c. 7.  
(g) Section 7C was inserted by section 2(1) of the Finance Act 2006 (c. 25).



## Finance Act 1980

94. The Finance Act 1980(a) is amended as follows.

95.—(1) Paragraph 5 of Schedule 17 (transfers of interests in oil fields) is amended as follows.

(2) In sub-paragraph (2)—

- (a) for “may by notice” substitute “may appeal by notice”; and
- (b) omit “appeal to the Special Commissioners”.

(3) In sub-paragraph (3) for “appear and be heard on” substitute “be a party to”.

(4) In sub-paragraph (4) after “abandoned” insert “before it is notified to the tribunal”.

(5) After sub-paragraph (5) insert—

“(6) The provisions of paragraphs 14A to 14I of Schedule 2 to the Oil Taxation Act 1975(b) shall apply to appeals under this paragraph subject to any necessary modifications.”.

## Betting and Gaming Duties Act 1981

96. The Betting and Gaming Duties Act 1981(c) is amended as follows.

97.—(1) Section 26M (review and appeal)(d) is amended as follows—

(2) In subsection (1)—

- (a) for “14 to 16” substitute “13A to 16”; and
- (b) after “duty” insert “as they apply to the decisions mentioned in section 13A(2)(a) to (h) of that Act”.

(3) In subsection (2) for “14 to 16” substitute “13A to 16”.

98.—(1) Paragraph 7A of Schedule 4 (payment of duty by instalments)(e) is amended as follows.

(2) In sub-paragraph (5)—

- (a) for “14 to 16” substitute “13A to 16”;
- (b) for “(reviews and appeals)” substitute “(meaning of relevant decision, reviews and appeals to a tribunal)”; and
- (c) for “specified in Schedule 5” substitute “falling within section 13A(2)(j)”.

99.—(1) Paragraph 6 of Schedule 4A (reviews and time limits on recovery)(f) is amended as follows.

(2) In sub-paragraph (1)—

- (a) for “14” substitute “13A to 16”;
- (b) for “(reviews of decisions)” substitute “(meaning of relevant decision, reviews and appeals to a tribunal)”; and
- (c) for “as it applies to the decisions mentioned in subsection (1) of that section” substitute “as they apply to the decisions mentioned in section 13A(2)(a) to (h) of that Act”.

## Finance Act 1982

100. The Finance Act 1982(g) is amended as follows.

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(a) 1980 c. 48.

(b) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(c) 1981 c. 63.

(d) Inserted by section 8 of, and Part 1 of Schedule 1 to, the Finance Act 2007 (c. 11).

(e) Inserted by paragraph 11(5) of Schedule 3 to the Finance Act 2007.

(f) Inserted by paragraphs 1 and 10 of Schedule 2 to the Finance Act 2000 (c. 17).

(g) 1982 c.39.

**101.**—(1) In Schedule 18 (alternative valuation of ethane etc) paragraph 8 is amended as follows.

- (2) In sub-paragraph (1) omit “to the Special Commissioners”.
- (3) In sub-paragraph (3) for “Commissioners”, in both places, substitute “tribunal”.
- (4) In sub-paragraph (4)—
  - (a) in the words before paragraph (a) —
    - (i) for “If, on a hearing of an appeal under this paragraph it appears to the majority of the Commissioners present at the hearing” substitute “If an appeal under this paragraph is notified to the tribunal and the tribunal determines”; and
    - (ii) for “they” substitute “it”.
  - (b) In paragraph (a)—
    - (i) for “they shall” substitute “the tribunal shall”;
    - (ii) for “they think” substitute “the tribunal thinks”;
  - (c) in paragraph (b) for “they may direct” substitute “the tribunal may direct”; and
  - (d) in paragraph (c) for “Commissioners” substitute “tribunal”.
- (5) In sub-paragraph (5)—
  - (a) after “principal Act” insert “, and paragraphs 14A to 14I of that Schedule”; and
  - (b) at the end insert “and, in the case of paragraphs 14A to 14I of Schedule 2, with such other modifications as may be necessary”.

**102.**—(1) In Schedule 19 (supplementary provisions relating to APRT) paragraph 7 is amended as follows.

- (2) In sub-paragraph (1) omit “to the Special Commissioners”.
- (3) In sub-paragraph (2)—
  - (a) in the words before paragraph (a) after “paragraph 14 of” insert “and paragraphs 14A to 14I of”;
  - (b) in paragraph (a) for “sub-paragraph (3)” substitute “paragraph 14(3)”;
  - (c) in paragraph (b) for “sub-paragraph (3)(b)” substitute “paragraph 14(3)(b)”;
  - (d) in paragraph (c) omit “and”;
  - (e) in paragraphs (c) and (d) for “sub-paragraph 10” substitute “paragraph 14(10)”;
  - (f) at the end of sub-paragraph (d) insert  
“; and  
    - (e) in the case of paragraphs 14A to 14I of Schedule 2(a), with such modifications as may be necessary”.

## **Finance Act 1984**

**103.** The Finance Act 1984(b) is amended as follows.

**104.**—(1) Section 115 (information relating to sales at arm’s length and market value of oil) is amended as follows.

- (2) In subsection (6)—
  - (a) for “may, by notice” substitute “may appeal, by notice”; and
  - (b) for “appeal to the Special Commissioners who” substitute “and, where such an appeal is notified to the tribunal, the tribunal”.

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(a) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.  
(b) 1984 c. 43.

(3) After subsection (6) insert—

“(6A) The provisions of paragraphs 14A to 14I of Schedule 2(a) to the principal Act shall apply to appeals under this paragraph subject to any necessary modifications.”.

**105.**—(1) In section 116(1)(b) (offences relating to section 115) for “Commissioners” substitute “tribunal”.

**106.** Omit section 127.

**107.** Omit Schedule 22.

### **Inheritance Tax Act 1984**

**108.** The Inheritance Tax Act 1984(b) is amended as follows.

**109.**—(1) Section 35A (variation of undertakings)(c) is amended as follows.

(2) In subsection (2)—

- (a) for “a Special Commissioner” substitute “the tribunal”; and
- (b) for “the Commissioner may direct that the undertaking is to have effect from a date specified by him” substitute “the tribunal may direct that the undertaking is to have effect from a specified date”.

(3) In subsection (3)—

- (a) for “Special Commissioner” substitute “tribunal”; and
- (b) for “his direction” substitute “the tribunal’s direction”.

(4) In subsection (4) for “Special Commissioner” substitute “tribunal”.

**110.** In section 54A(3) (special rate of charge where settled property affected by potentially exempt transfer)(d) for “Special Commissioners” substitute “tribunal”.

**111.**—(1) Section 79A (variation of undertakings) is amended as follows.

(2) In subsection (2)—

- (a) for “a Special Commissioner” substitute “the tribunal”; and
- (b) for “the Commissioner may direct that the undertaking is to have effect from a date specified by him” substitute “the tribunal may direct that the undertaking is to have effect from a specified date”.

(3) In subsection (3)—

- (a) for “Special Commissioner” substitute “tribunal”; and
- (b) for “his direction” substitute “the tribunal’s direction”.

(4) In subsection (4) for “Special Commissioner” substitute “tribunal”.

**112.** In section 219A (power to require information)(e)—

- (a) for “a Special Commissioner” substitute “the tribunal”; and
- (b) for “Commissioner is to give his consent” substitute “tribunal is to give consent”.

**113.**—(1) Section 219B (appeal against requirement to produce documents etc) is amended as follows.

(2) In subsection (4)—

- (a) for “Special Commissioners” substitute “tribunal”; and

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(a) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(b) 1984 c. 51.

(c) Sections 35A and 79A were inserted by paragraph 8 of Schedule 25 to the Finance Act 1998 (c. 36).

(d) Section 54A was inserted by section 96 of, and paragraph 1 of Schedule 7 to, the Finance (No 2) Act 1987 (c. 51).

(e) Sections 219A and 219B were inserted by section 106 of the Finance Act 1999 (c. 16).

- (b) omit “to them” in paragraphs (a) and (b).
- (3) In subsection (5) for “Special Commissioners confirm” substitute “tribunal confirms”.
- (4) In subsection (6) for “under section 225 below” substitute “under sections 11 or 13 of the TCEA 2007”.

**114.** In the heading before section 221 (determinations and appeals) after “determinations” insert “, reviews”.

**115.**—(1) Section 222 (appeals against determination)(a) is amended as follows.

(2) For subsection (2) substitute—

“(2) Sections 223D, 223G and 223H provide for notification of the appeal to the tribunal.”.

(3) In subsection (3) after “may be” insert “notified”.

(4) In subsection (4)—

- (a) after “may be” insert “notified”; and
- (b) after “appropriate” insert “Lands”.

(5) After subsection (4) insert—

“(4ZA) The appeal may be notified under subsection (3) or (4) only if it could be notified to the tribunal under section 223D, 223G or 223H.”.

(6) For subsection (4A) substitute—

“(4A) If and so far as the question in dispute on any appeal under this section which has been notified to the tribunal or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate Lands tribunal.”.

(7) In subsection (4B) after “appropriate” insert “Lands”.

**116.** For section 223 (appeals out of time) substitute—

**“223 Late notice of appeal**

This section applies in a case where—

- (a) notice of appeal may be given to HMRC under section 222, but
- (b) no notice is given before the relevant time limit.
- (2) Notice may be given after the relevant time limit if—
  - (a) HMRC agree, or
  - (b) where HMRC do not agree, the tribunal gives permission.
- (3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.
  - (4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.
  - (5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.
  - (6) Condition C is that HMRC are satisfied that request under subsection (4) was made without unreasonable delay after the reasonable excuse ceased.
  - (7) If a request of the kind referred to in subsection (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.
  - (8) In this section “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this section).”.

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(a) Subsections (4), (4A) and (4B) were substituted for subsection (4) by section 200(1) and (3) of the Finance Act 1993 (c. 34).

117. After section 223 insert—

**“223A Appeal: HMRC review or determination by tribunal**

- (1) This section applies if notice of appeal has been given to HMRC.
- (2) In such a case—
  - (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 223B),
  - (b) HMRC may notify the appellant of an offer to review the matter in question (see section 223C), or
  - (c) the appellant may notify the appeal to the tribunal (see section 223D).
- (3) See sections 223G and 223H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

**223B Appellant requires review by HMRC**

- (1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (2) HMRC must, within the relevant period, notify the appellant of HMRC’s view of the matter in question.
- (3) HMRC must review the matter in question in accordance with section 223E.
- (4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—
  - (a) the appellant has already given a notification under this section in relation to the matter in question,
  - (b) HMRC have given a notification under section 223C in relation to the matter in question, or
  - (c) the appellant has notified the appeal to the court under section 222(3), the appropriate Lands tribunal under section 222(4), or the tribunal under section 223D.
- (5) In this section “relevant period” means—
  - (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
  - (b) such longer period as is reasonable.

**223C HMRC offer review**

- (1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC’s view of the matter in question.
- (3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 223E.
- (4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question shall be conclusive for the purposes of this Act.
- (5) The same consequences shall follow for all purposes as would have followed if, on the date that HMRC gave notice of their view, the tribunal had determined the appeal in accordance with its terms.
- (6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 223H.
- (7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this section in relation to the matter in question,
- (b) the appellant has given a notification under section 223B in relation to the matter in question, or
- (c) the appellant has notified the appeal to the court under section 222(3), the appropriate Lands tribunal under section 222(4) or the tribunal under section 223D.

(8) In this section “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

**223D Notifying appeal to the tribunal**

- (1) This section applies if notice of appeal has been given to HMRC.
- (2) The appellant may notify the appeal to the tribunal.
- (3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.
- (4) Subsections (2) and (3) do not apply in a case where—
  - (a) HMRC have given a notification of their view of the matter in question under section 223B, or
  - (b) HMRC have given a notification under section 223C in relation to the matter in question.
- (5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 223G or 223H.

**223E Nature of review etc**

- (1) This section applies if HMRC are required by section 223B or 223C to review the matter in question.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
  - (a) by HMRC in deciding the matter in question, and
  - (b) by any person in seeking to resolve disagreement about the matter in question.
- (4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that HMRC’s view of the matter in question is to be—
  - (a) upheld,
  - (b) varied, or
  - (c) cancelled.
- (6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—
  - (a) the period of 45 days beginning with the relevant day, or
  - (b) such other period as may be agreed.
- (7) In subsection (6) “relevant day” means—
  - (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,
  - (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that HMRC's view of the matter in question (see sections 223B(2) and 223C(2)) is upheld.

(9) If subsection (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

#### **223F Effect of conclusions of review**

(1) This section applies if HMRC give notice of the conclusions of a review (see section 223E(6) and (9)).

(2) The conclusions of the review shall be conclusive for the purposes of this Act.

(3) Subsections (2) and (3) do not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 223G.

#### **223G Notifying appeal to tribunal after review concluded**

(1) This section applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with section 223E, or
- (b) the period specified in section 223E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The appellant may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).

(6) In this section “post-review period” means—

- (a) in a case falling within subsection (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 223E(6), or
- (b) in a case falling within subsection (1)(b), the period that—
  - (i) begins with the day following the last day of the period specified in section 223E(6), and
  - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with section 223E(9).

#### **223H Notifying appeal to tribunal after review offered but not accepted**

(1) This section applies if—

- (a) HMRC have offered to review the matter in question (see section 223C), and
- (b) the appellant has not accepted the offer.

(2) The appellant may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).

(6) In this section “acceptance period” has the same meaning as in section 223C.

### **223I Interpretation of sections 223A to 223I**

(1) In sections 223A to 223H—

- (a) “matter in question” means the matter to which an appeal relates;
- (b) a reference to a notification is a reference to a notification in writing.

(2) In sections 223A to 223H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

- (a) notification of HMRC’s view under section 223B(2);
- (b) notification by HMRC of an offer of review (and of their view of the matter) under section 223C;
- (c) notification of the conclusions of a review under section 223E(6); and
- (d) notification of the conclusions of a review under section 223E(9).

(3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”.

**118.** For section 224 (procedure before Special Commissioners) substitute—

#### **“224 Determination of appeal by tribunal**

If an appeal is notified to the tribunal, the tribunal must confirm the determination appealed against (or that determination as varied on a review under section 223E) unless the tribunal is satisfied that it ought to be varied (or further varied) or quashed.”.

**119.** Omit sections 225 and 225A.

**120.** In section 245(2)(b) (failure to deliver accounts) for “Special Commissioners” substitute “tribunal”.

**121.** In section 245A (failure to provide information etc)(a) for “Special Commissioners”, in each place, substitute “tribunal”.

**122.—**(1) Section 249 (recovery of penalties) is amended as follows.

(2) In subsection (2) for “Special Commissioners” substitute “First-tier Tribunal”.

(3) For subsection (3) substitute—

“(3) Where any proceedings are brought before the First-tier Tribunal, 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 a penalty which has been determined under this Part, 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.”.

(4) For subsection (4) substitute—

“(4) The person liable to the penalty shall be a party to the proceedings.”.

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(a) Section 245A was inserted by section 106 of the Finance Act 1999 (c. 16).



**123.** Omit section 251.

**124.**—(1) Section 252 (effect of award by Special Commissioners) is amended as follows.

(2) In the heading for “Special Commissioners” substitute “the tribunal”.

(3) For “Special Commissioners” substitute “tribunal”.

**125.**—(1) Section 272 (general interpretation) is amended as follows.

(2) Omit the entry for “Special Commissioners”.

(3) Insert the following definitions at the appropriate places—

““HMRC” means Her Majesty’s Revenue and Customs;”;

““the TCEA 2007” means the Tribunals, Courts and Enforcement Act 2007;”;

““the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

### **Finance Act 1987**

**126.** The Finance Act 1987(a) is amended as follows.

**127.** In section 62(7)(b) (market value of oil to be determined on a monthly basis) for “Commissioners before whom” substitute “tribunal before which”.

**128.** In section 63(3)(b) (blends of oil from two or more fields) for “Commissioners before whom” substitute “tribunal before which”.

**129.**—(1) Section 66 (oil allowance: adjustment for final periods) is amended as follows.

(2) In subsection (6) omit “to the Special Commissioners”.

(3) In subsection (7)—

(a) in paragraph (a) for “Commissioners”, in each place, substitute “tribunal”; and

(b) in paragraph (b)—

(i) for “, on the hearing of the appeal,” substitute “the appeal is notified to the tribunal and”;

(ii) for “the majority of Commissioners present at the hearing” substitute “tribunal”;

(iii) for “they shall” substitute “the tribunal shall”;

(iv) for “they think” substitute “the tribunal thinks”; and

(c) in paragraph (c) for “Commissioners” substitute “tribunal”.

(4) For subsection (8) substitute—

“(8) Paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(b) to the principal Act shall apply in relation to an appeal under subsection (6) as they apply in relation to an appeal against an assessment or determination made under that Act subject to the following modifications—

(a) any reference in those paragraphs to a participator is to be construed as a reference to the responsible person by whom notice of appeal is given;

(b) any reference to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under subsection (7)(a) above;

(c) any other modifications that are necessary.”

**130.**—(1) Paragraph 3 of Schedule 12 (supplementary provisions as to blended oil) is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

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(a) 1987 c.16.

(b) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

- (3) In sub-paragraph (2)—
  - (a) in paragraph (a) omit “and be entitled to appear accordingly”; and
  - (b) in paragraph (b) for “Special Commissioners” and “Commissioners” substitute “tribunal”.
- (4) In sub-paragraph (2)(c)—
  - (a) for “if, on the hearing of the appeal, it appears to the majority of the Commissioners present” substitute “if, on an appeal notified to the tribunal, it appears to the tribunal”; and
  - (b) for “they” substitute “the tribunal”.
- (5) For sub-paragraph (2)(d) substitute—
  - “(d) paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(a) to the principal Act shall apply in relation to the appeal as they apply in relation to an appeal against an assessment or determination made under that Act subject to the following modifications—
    - (i) any reference to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (2)(b) above;
    - (ii) any other modifications that are necessary.”.

**131.** In paragraph 2(2)(c) of Schedule 14 (cross-field allowance) for “Special Commissioners” substitute “tribunal”.

### **Income and Corporation Taxes Act 1988**

- 132.** The Income and Corporation Taxes Act 1988(b) is amended as follows.
- 133.**—(1) Section 42 (appeals against determinations under sections 34 to 36 etc) is amended as follows.
  - (2) In subsection (4) omit from “and shall be” to the end.
  - (3) In subsection (5) for “take part in” substitute “be a party to”.
- 134.** For section 102(1) (provisions supplementary to sections 100 and 101) substitute—
  - “(1) Any question arising under section 100(1)(a) or 101(1)(a) shall be determined, for the purpose of computing for any tax purpose the profits of both the trades or, as the case may be, the professions concerned, in like manner as an appeal.”.
- 135.**—(1) Section 152 (notification of taxable amount of certain benefits) is amended as follows.
  - (2) In subsection (5) for “determination—” substitute “determination by the tribunal.”.
  - (3) Omit subsection (5)(i) and (ii).
- 136.** In section 215(7) and (8) (advance clearance by Board of distributions and payments) for “the Special Commissioners” (in each place) and for “Commissioners” substitute “the tribunal”.
- 137.**—(1) In section 343(10) (company reconstructions without a change of ownership)—
  - (2) After “all those companies” insert “in like manner as an appeal, and all those companies shall be entitled to be a party to those proceedings.”.
  - (3) Omit paragraphs (a), (b) and (c) and the words following paragraph (c).
- 138.** In section 376A(6) (the register of qualifying lenders)(c)—
  - (a) after “may” insert “appeal; and
  - (b) omit from “, require the matter” to the end of the subsection.

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(a) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(b) 1988 c. 1.

(c) Section 376A was inserted by section 142(2) of the Finance Act 1994 (c. 9).

**139.** In section 378(3) (supplementary regulations)(a) for “the General Commissioners or the Special Commissioners” substitute “the tribunal”.

**140.**—(1) Section 444A(6) (transfers of business)(b) is amended as follows.

(2) For “by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings”.

**141.**—(1) Section 444AZA(5) (transfers of life assurance business: Case VI losses of the transferor)(c) is amended as follows.

(2) For “by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings”.

**142.**—(1) Section 444AZB(5) (transfers of life assurance business: Case I losses of the transferor) is amended as follows.

(2) For “by the Special Commissioners who shall determine the question in the same manner as they determine appeals, but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings”.

**143.** In subsections (9), (11) and (12) of section 444AED (clearance: no avoidance or group advantage)(d) for “the Special Commissioners” substitute “the tribunal”.

**144.** In section 461(8) (taxation in respect of other business)(e) omit “to the Special Commissioners”.

**145.** In section 461C(5) (taxation in respect of other business: withdrawal of qualifying status from incorporated friendly society) omit “to the Special Commissioners”.

**146.** In section 465(5) (old societies) omit “to the Special Commissioners”.

**147.** In section 506C(8) (sections 506A and 506B: supplemental)(f) for “Special Commissioners” substitute “tribunal”.

**148.** In section 552A(9)(k) (tax representatives)(g) for “Special Commissioners” substitute “tribunal”.

**149.** In section 584 (relief for unremittable overseas income) omit subsection (9).

**150.** In section 703(10)(b) (cancellation of corporation tax advantage) for “they determine” substitute “it determines”.

**151.**—(1) Section 705 (appeals against Board’s notices under section 703)(h) is amended as follows.

(2) In subsection (1) omit “to the Special Commissioners”.

(3) Omit subsections (2) and (3).

(4) In subsection (5)—

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(a) Section 378(3) was amended by section 38(8) of, and paragraphs 13 and 18(5) of Schedule 4 and Part III(7) of Schedule 20 to, the Finance Act 1999 (c. 16).

(b) Section 444A was inserted by paragraphs 4 and 7 of Schedule 9 to the Finance Act 1990 (c. 29).

(c) Sections 444AZA and 444AZB were inserted by S.I. 2008/381.

(d) Section 444AED was inserted by section 40 of, and paragraph 8(1) of Schedule 9 to, the Finance Act 2007 (c. 11).

(e) Sections 461A(8) and 461C(5) were substituted by S.I. 2001/3629.

(f) Section 506C was inserted by section 54 of the Finance Act 2006 (c. 25).

(g) Section 552A was inserted by section 87 of the Finance Act 1998 (c. 36).

(h) Section 705 (1) was substituted by section 1027 of, and paragraphs 1 and 56 of Schedule 1 to, the Income Tax Act 2007 (c. 3).

- (a) for “subsections (1) to (3) above substitute “subsection (1);
- (b) for “Special Commissioners or the tribunal” substitute “tribunal,”; and
- (c) omit “or the statement of a case”.

**152.** Omit sections 705A, 705B and 706.

**153.** In section 709(4) (meaning of “corporation tax advantage” and other expressions)(a) omit “, the Special Commissioners”.

**154.**—(1) Section 751B (section 751A: supplementary)(b) is amended as follows.

(2) In subsection (5) omit “to the Special Commissioners”.

(3) In subsection (7)—

- (a) in paragraphs (a) and (b) for “the Special Commissioners are” substitute “the tribunal is” and for “they” substitute “it”; and
- (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.

(4) In subsection (9) for “(appeals against assessments to tax)” substitute “(appeals)”.

**155.**—(1) Section 754 (assessment, recovery and postponement of tax)(c) is amended as follows—

(2) In subsection (3)—

- (a) for “Where” substitute “Subsection (3B) shall apply where”; and
- (b) for “that appeal shall be to the Special Commissioners” substitute “and the question is one whose resolution is likely to affect the liability of more than one person under this Chapter in respect of the controlled foreign company concerned”.

(3) Omit subsection (3A).

(4) In subsection (3B)—

- (a) in paragraph (a) for “to appear and be heard by the Special Commissioners, or to make representations to them in writing” substitute “to be a party to any proceedings”;
- (b) in paragraph (b) for “Special Commissioners” substitute “tribunal”; and
- (c) in paragraph (c) for “their” substitute “the tribunal’s”.

**156.**—(1) Section 783(9) (leased assets: supplemental) is amended as follows.

(2) After “all those persons” insert “in like manner as an appeal, and all those persons shall be entitled to be a party to those proceedings”.

(3) Omit paragraphs (a), (b) and (c) and the words following paragraph (c).

**157.** In section 832 (Interpretation of the Corporation Tax Acts etc) after the definition of “trade” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

**158.** Insofar as paragraph 5 of Schedule 9 (approved share option schemes etc)(d) continues to apply it is to have effect as if—

- (a) after “may” there were inserted “appeal; and
- (b) from “, require the matter” to the end of the paragraph were omitted.

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(a) Section 709 was amended by section 1027 of, and paragraphs 1 and 161 of Schedule 1 to, the Income Tax Act 2007 (c. 3).  
 (b) Section 751B was inserted by section 48 of, and paragraph 5 of Schedule 15 to, the Finance Act 2007 (c. 11).  
 (c) Section 754 (3B) was inserted by paragraph 9 of Schedule 17 to the Finance Act 1998 (c. 36).  
 (d) Paragraph 5 of Schedule 9 was repealed by section 722 of, and paragraphs 1 and 112 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1) except so far as relating to profit sharing schemes (see paragraph 71 of Schedule 7 to that Act).

**159.** In paragraph 21(3) of Schedule 15 (certification of qualifying policies) omit “to the General Commissioners or, if he so elects, to the Special Commissioners”.

**160.** In paragraph 7 of Schedule 17 (dual resident investment companies) omit “to the Special Commissioners”.

**161.**—(1) Schedule 27 (distributing funds) is amended as follows.

(2) In paragraph 16(1) omit “to the Special Commissioners”.

(3) In paragraph 16(2) for “Special Commissioners” substitute “tribunal”.

(4) In paragraph 19—

(a) in sub-paragraph (1) for “In any case” substitute “This paragraph applies”;

(b) for the words after sub-paragraph (1)(b) substitute—

“(1A) Any person who has been assessed to tax and considers that, if the offshore fund were to be certified as a distributing fund in respect of the accounting period in question, he would be overcharged to tax by the assessment may—

(a) first apply in writing to HMRC within 30 days of the date of the issue of the notice of assessment for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the question whether the fund should be so certified;

(b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.”; and

(c) in sub-paragraph (2)—

(i) for “A notice of” substitute “An”; and

(ii) for “(1)” substitute “(1A)”.

(5) In paragraph 20 for “Special Commissioners” substitute “tribunal”.

**162.**—(1) Paragraph 12 of Schedule 28AA (provision not at arm’s length)(a) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) Sub-paragraph (4) applies in so far as—

(a) the question in dispute on any appeal falling within sub-paragraph (2) below is or involves a determination of whether this Schedule has effect, and

(b) the question relates to any provision made or imposed as between any two persons each of whom is within the charge to income tax or corporation tax in respect of profits arising from the relevant activities.”.

(3) Omit sub-paragraph (3).

(4) In sub-paragraph (4)—

(a) in paragraph (a) for “appear and be heard by the Special Commissioners, or to make representations to them in writing” substitute “be a party in any proceedings”;

(b) in paragraph (b) for “Special Commissioners” substitute “tribunal”; and

(c) in paragraph (c) for “their” substitute “the tribunal’s”.

## **Finance Act 1988**

**163.** The Finance Act 1988(b) is amended as follows.

**164.** In section 130(4) (provisions for securing payment by company of outstanding tax)—

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(a) Schedule 28AA was inserted by section 108(2) of, and Schedule 16 to, the Finance Act 1998 (c. 36).

(b) 1988 c. 39.

- (a) for “the Special Commissioners” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”; and
- (b) after “final” add “(notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007)”.

**165.** Omit sections 133 to 135.

#### **Finance Act 1989**

**166.** The Finance Act 1989(a) is amended as follows.

**167.** In section 182 (disclosure of information)(b)—

- (a) in subsection (2)(b) for “any tribunal mentioned in subsection (3) below” substitute “the First-tier Tribunal or Upper Tribunal”;
- (b) in subsection (2ZA)(b), for “General Commissioners or the Special Commissioners” substitute “the First-tier Tribunal or Upper Tribunal”;
- (c) in subsection (2ZB)(b) for “General Commissioners or the Special Commissioners” substitute “First-tier Tribunal or an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998”;
- (d) in subsection (2A)(a)(ii) for “General Commissioners or the Special Commissioners” substitute “the First-tier Tribunal or Upper Tribunal”; and
- (e) omit subsection (3).

#### **Courts and Legal Services Act 1990**

**168.** In Schedule 11 to the Courts and Legal Services Act 1990(c) (judges etc barred from legal practice) omit the entries for—

- (a) President of Value Added Tax Tribunals or chairman of such a tribunal appointed under Schedule 8 to the Value Added Tax Act 1983; and
- (b) Special Commissioner appointed under section 4 of the Taxes Management Act 1970.

#### **Social Security Contributions and Benefits Act 1992**

**169.**—(1) The Social Security Contributions and Benefits Act 1992(d) is amended as follows.

(2) Paragraph 3B of Schedule 1 (Supplementary provisions etc)(e) is amended as follows.

(3) In sub-paragraph (8) omit “to the Special Commissioners”.

(4) In sub-paragraph (9)—

- (a) for “the Special Commissioners may” substitute “that is notified to the tribunal, the tribunal may”; and
- (b) in paragraph (b) for “Special Commissioners think” substitute “tribunal thinks”.

(5) For sub-paragraph (14) substitute—

“(14) In this paragraph “tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal.”.

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(a) 1989 c. 26.

(b) Section 182 has been amended. Subsection (2A) was inserted by paragraph 9 of Schedule 6 to the Social Security Contributions (Transfer of Functions) Act 1999 (c. 2) and amended by section 59 of, and paragraph 11(1) and (4) of Schedule 5 to, the Tax Credits Act 2002 (c. 21) and section 53 of, and paragraph 1 of Schedule 7 to, the Employment Act 2002 (c. 22). Subsection (2ZA) was substituted for section (2AA) by section 59 of, and paragraph 11(1) and (4) of Schedule 5 to, the Tax Credits Act 2002. Subsection 2ZB was inserted by section 18 of the Child Trust Funds Act 2004 (c. 6).

(c) 1990 c. 41.

(d) 1992 c. 4.

(e) Paragraph 3B was inserted by section 77(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

## **Social Security Administration Act 1992**

**170.** The Social Security Administration Act 1992(a) is amended as follows.

**171.**—(1) Section 121D (appeals in relation to personal liability notices)(b) is amended as follows.

(2) In subsection (2) omit “to the Special Commissioners”.

(3) In subsection (5)—

(a) for “the Special Commissioners shall” substitute “and is notified to the tribunal, the tribunal shall”; and

(b) for “Special Commissioners see” substitute “tribunal sees”.

(4) In subsection (6) for the definition of “the Special Commissioners” substitute—

““tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal;”.

**172.**—(1) Paragraph 2 of Schedule 3A (health in pregnancy grant: civil penalty for fraud, etc)(c) is amended as follows.

(2) In sub-paragraphs (1) and (2) for “an appeal tribunal” substitute “the First-tier Tribunal”.

(3) For sub-paragraph (3) substitute—

“(3) An appeal lies to the Upper Tribunal otherwise than on a point of law from a decision of the First-tier Tribunal under sub-paragraph (2) (unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007).

(3A) For an appeal on a point of law, see section 11 of that Act.

(3B) An appeal may be brought under sub-paragraph (3) only if, on an application made by the person concerned, the First-tier Tribunal or the Upper Tribunal has given its permission for the appeal to be brought.”.

(4) In sub-paragraph (4)—

(a) for “a Commissioner” substitute “the Upper Tribunal”; and

(b) for “an appeal tribunal” substitute “the First-tier Tribunal”.

(5) Omit sub-paragraph (5).

(6) In sub-paragraph (6) for “that Act” substitute “the Social Security Act 1998”.

## **Social Security Contributions and Benefits (Northern Ireland) Act 1992**

**173.** The Social Security Contributions and Benefits (Northern Ireland) Act 1992(d) is amended as follows.

**174.**—(1) Paragraph 3B(e) of Schedule 1 (prohibition on deduction or recovery of class I contributions) is amended as follows.

(2) In sub-paragraph (8) omit “to the Special Commissioners”.

(3) In sub-paragraph (9)—

(a) for “the Special Commissioners may” substitute “that is notified to the tribunal, the tribunal may”; and

(b) in paragraph (b) for “Special Commissioners think” substitute “tribunal thinks”.

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(a) 1992 c. 5.

(b) Section 121D was inserted by section 64 of the Social Security Act 1998 (c. 14). Subsections (3), (5) and (6) were amended by section 5 of, and paragraph 11 of Schedule 5 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(c) Schedule 3A was inserted by section 133(2) of the Health and Social Care Act 2008 (c. 14).

(d) 1992 c. 7.

(e) Inserted by section 81 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(4) For sub-paragraph (14) substitute—

“(14) In this paragraph “tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal;”.

### **Social Security Administration (Northern Ireland) Act 1992**

**175.** The Social Security Administration (Northern Ireland) Act 1992(a) is amended as follows.

**176.**—(1) Section 115C(b) is amended as follows.

(2) In subsection (2) omit “to the Special Commissioners”.

(3) In subsection (5)—

(a) for “the Special Commissioners shall” substitute “and is notified to the tribunal, the tribunal shall”;

(b) for “Special Commissioners see” substitute “tribunal sees”.

(4) In subsection (6) for the definition of “the Special Commissioners” substitute—

““tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal.”.

### **Taxation of Chargeable Gains Act 1992**

**177.** The Taxation of Chargeable Gains Act 1992(c) is amended as follows.

**178.** In section 13 (attribution of gains to members of non-resident companies) omit subsection (15).

**179.** In section 138 (procedure for clearance in advance)—

(a) for subsection (4) for “Special Commissioners”, in both places, substitute “tribunal”; and

(b) for subsection (5) for “the Special Commissioners” and for “Commissioners” substitute “the tribunal”.

**180.** In section 211ZA(9) (transfers of business: transfer of unused losses)(d) for “by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and the transferee shall be entitled to be a party to any proceedings”.

**181.** In section 213(8) (spreading of gains and losses under section 212) for “by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and the transferee shall be entitled to be a party to any proceedings”.

**182.** In section 261B(4)(a) (treating trade loss etc as CGT loss)(e) for “Commissioners” substitute “tribunal”.

**183.** In section 261C(3)(a) (meaning of the maximum amount for purposes of section 261B) for “Commissioners” substitute “tribunal”.

**184.** In section 288(1) (interpretation) after the definition of “trading stock” insert—

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(a) 1992 c. 8 as amended by Schedule 4 to S.I. 1999/671.

(b) Section 115C was inserted by article 60 of S.I. 1998/1506 (N.I. 10) and amended by Schedule 4 to S.I. 1999/671.

(c) 1992 c. 12.

(d) Section 211ZA was inserted by section 170 of, and paragraph 21 of Schedule 33 to, the Finance Act 2003 (c. 14).

(e) Sections 261B and 261C were inserted by section 1027 of, and paragraphs 294 and 329 of Schedule 1 to, the Income Tax Act 2007 (c. 3).



““the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

### **Finance (No 2) Act 1992**

**185.** The Finance (No 2) Act 1992(a) is amended as follows.

**186.** Omit—

- (a) the heading “*General and Special Commissioners*” before section 75;
- (b) sections 75 and 76; and
- (c) Schedule 16.

**187.**—(1) Paragraph 8 of Schedule 17 is amended as follows.

(2) In sub-paragraph (2)—

- (a) after “the successor companies concerned” insert “as if it were an appeal, and each of the successor companies shall be entitled to be a party to any proceedings”; and
- (b) omit paragraphs (a), (b) and (c).

(3) Omit sub-paragraph (3).

### **Tribunals and Inquiries Act 1992**

**188.** In Schedule 1 to the Tribunals and Inquiries Act 1992(b) (tribunals under general supervision of council)—

- (a) in Part 1 (tribunals under direct supervision of council) omit the entries at—
  - (i) paragraph 39 relating to revenue (including “Revenue” in the first column); and
  - (ii) paragraph 44 relating to VAT and Duties (including “VAT and Duties” in the first column); and
- (b) in Part 2 (tribunals under supervision of Scottish Committee) omit the entries at—
  - (i) paragraph 60 relating to revenue (including “Revenue” in the first column); and
  - (ii) paragraph 63 relating to VAT and Duties (including “VAT and Duties” in the first column).

### **Judicial Pensions and Retirement Act 1993**

**189.** The Judicial Pensions and Retirement Act 1993(c) is amended as follows.

**190.** In Part 2 of Schedule 1 (offices which may be qualifying judicial offices) omit the entries relating to—

- (a) President or Vice-President of Value Added Tax Tribunals;
- (b) Chairman of value added tax tribunals; and
- (c) Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970.

**191.** In Schedule 5 (retirement provisions: relevant offices) omit the entries relating to—

- (a) President of Value Added Tax Tribunals;
- (b) Chairman of value added tax tribunals;

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(a) 1992 c. 48.  
(b) 1992 c. 53. Paragraph 39 was amended by paragraph 351 of Part 2 of Schedule 1 to the Income Tax Act 2007 (c. 1). Paragraph 44 was substituted by paragraph 12 of Schedule 14 to the Value Added Tax Act 1994 (c. 23). Paragraph 63 was substituted by section 7(7) of the Finance Act 1994 (c. 9) and amended by paragraph 12 of Schedule 14 to the Value Added Tax Act 1994 (c. 23).  
(c) 1993 c. 8.

- (c) Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970;
- (d) Deputy Special Commissioner appointed under section 4A of the Taxes Management Act 1970;
- (e) Commissioner for the general purposes of the income tax appointed under section 2 of the Taxes Management Act 1970; and
- (f) Chairman or other member of the tribunal constituted by section 706 of the Income and Corporation Taxes Act 1988.

### **Finance Act 1993**

**192.** The Finance Act 1993(a) is amended as follows.

**193.**—(1) Section 187 (returns and information) is amended as follows.

(2) In subsection (5)—

- (a) for “a Special Commissioner gives his consent” substitute “the tribunal consents”; and
- (b) for “Special Commissioner” substitute “tribunal”.

(3) In subsection (6) for “Special Commissioners who” substitute “tribunal which”.

**194.**—(1) Schedule 20A (PRT: elections for oil fields to become non-taxable)(b) is amended as follows.

(2) Omit paragraph 11(2).

(3) After paragraph 11(2) insert—

“(3) The provisions of paragraphs 14A to 14I of Schedule 2 to OTA 1975(c) shall apply in relation to an appeal under paragraphs 9 or 10 above as they apply in relation to an appeal against an assessment or determination made under that Act, subject to any necessary modifications.”.

(4) In paragraph 12 in the entry for “Commissioners” omit “(except in the expression “Special Commissioners”)”.

**195.**—(1) Schedule 21 (oil taxation: supplementary provisions about information) is amended as follows.

(2) In paragraph 3(2)—

- (a) for “a Special Commissioner” substitute “the tribunal”; and
- (b) for “Commissioner” substitute “tribunal”.

(3) In paragraph 6—

- (a) in sub-paragraph (2) for “a Special Commissioner for, and obtained, his approval” substitute “the tribunal and obtained approval”; and
- (b) in sub-paragraph (3) for “Commissioner” substitute “tribunal”.

### **Finance Act 1994**

**196.** The Finance Act 1994(d) is amended as follows.

**197.**—(1) Section 7 (VAT and duties tribunals) is amended as follows.

(2) For the heading (and for the cross-heading preceding section 7) and section 7(e) substitute—

(a) 1993 c. 34.

(b) Schedule 20A was inserted by section 107 of, and Schedule 33 to, the Finance Act 2008 (c. 9).

(c) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(d) 1994 c. 9.

(e) Section 7 was amended by section 100 of, and paragraph 13 of Schedule 14 and Schedule 15 to, the Value Added Tax Act 1994 (c. 23).

## **7 Meaning of tribunal**

In the following provisions of this Chapter references to an appeal tribunal are references to the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**198.** Before section 14 insert—

### **“13A Meaning of “relevant decision”**

- (1) This section applies for the purposes of the following provisions of this Chapter.
- (2) A reference to a relevant decision is a reference to any of the following decisions—
  - (a) any decision by HMRC, in relation to any customs duty or to any agricultural levy of the European Community, as to—
    - (i) whether or not, and at what time, anything is charged in any case with any such duty or levy;
    - (ii) the rate at which any such duty or levy is charged in any case, or the amount charged;
    - (iii) the person liable in any case to pay any amount charged, or the amount of his liability; or
    - (iv) whether or not any person is entitled in any case to relief or to any repayment, remission or drawback of any such duty or levy, or the amount of the relief, repayment, remission or drawback to which any person is entitled;
  - (b) so much of any decision by HMRC that a person is liable to any duty of excise, or as to the amount of his liability, as is contained in any assessment under section 12 above;
  - (c) any decision by HMRC to assess any person to excise duty under section 12A(2) above, section 61, 94, 96 or 167 of the Management Act, section 8, 10, 11 or 36G of the Alcoholic Liquor Duties Act 1979, section 10, 13, 13ZB, 13AB, 13AD, 14, 14F, 23 or 24 of the Hydrocarbon Oil Duties Act 1979, section 8 of the Tobacco Products Duty Act 1979, section 2 of the Finance (No 2) Act 1992 or as to the amount of duty to which a person is to be assessed under any of those provisions;
  - (d) any decision by HMRC on a claim under section 137A of the Management Act for repayment of excise duty;
  - (e) any decision by HMRC as to whether or not any person is entitled to any drawback of excise duty by virtue of regulations under section 2 of the Finance (No 2) Act 1992, or the amount of the drawback to which any person is so entitled;
  - (f) any decision by HMRC as to whether or not any person is entitled to any repayment or credit by virtue of regulations under paragraph 4(2)(h) of Schedule 2A to the Alcoholic Liquor Duties Act 1979 (duty stamps), or the amount of the repayment or credit to which any person is so entitled;
  - (g) any decision by HMRC made by virtue of regulations under paragraph 4(2)(i) of that Schedule that some or all of a payment made, or security provided, is forfeit, or the amount which is so forfeit;
  - (h) so much of any decision by HMRC that a person is liable to any penalty under any of the provisions of this Chapter, or as to the amount of his liability, as is contained in any assessment under section 13 above;
  - (i) any decision as to whether or not—
    - (i) an amount due in respect of customs duty or agricultural levy, or
    - (ii) any repayment by HMRC of an amount paid by way of customs duty or agricultural levy,

is to carry interest, or as to the rate at which, or period for which, any such amount is to carry interest;

- (j) any decision by HMRC which is of a description specified in Schedule 5 to this Act, except for any decision under section 152(b) of the Management Act as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored.”.

**199.**—(1) Section 14 (requirement for review of a decision)(a) is amended as follows.

(2) For the title substitute “Requirement for review of decision under section 152(b) of the Management Act etc”.

(3) In subsection (1)—

(a) after “following decisions” insert “by HMRC”, and

(b) for paragraphs (a) to (d) substitute—

“(a) any decision under section 152(b) of the Management Act as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored;

(b) any relevant decision which is linked by its subject matter to such a decision under section 152(b) of the Management Act.”.

(4) After subsection (2) insert—

“(2A) But in the case of a relevant decision that falls within subsection (1)(b), a person may require HMRC to review the decision under this section only if HMRC are also required to review the decision within subsection (1)(a) to which it is linked.”.

(5) Omit subsections (6) and (7).

**200.** After section 14 insert—

**“14A Review out of time**

(1) This section applies if—

(a) a person may, under section 14(2), require HMRC to review a decision, and

(b) the person gives notice requiring such a review after the end of the 45 day period mentioned in section 14(3).

(2) HMRC are required to carry out a review of the decision in either of the following cases.

(3) The first case is where HMRC are satisfied that—

(a) there was a reasonable excuse for not giving notice requiring a review before the end of that 45 day period, and

(b) the notice given after the end of that period was given without unreasonable delay after that excuse ceased.

(4) The second case is where—

(a) HMRC are not satisfied as mentioned in subsection (3), and

(b) the appeal tribunal, on application made by the person, orders HMRC to carry out a review.

(5) A person may require HMRC to review a decision falling within section 14(1)(b) only if HMRC are also required to review the decision within section 14(1)(a) to which it is linked.

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(a) Section 14 was amended by section 20(4) and (5) of the Finance Act 1995 (c. 4), paragraph 1(2) of Schedule 6 to the Finance Act 1997 (c. 16), paragraph 10 of Schedule 2 to the Finance Act 1998 (c. 36), section 130(1) and (4) of the Finance Act 1999 (c. 16), section 4(1) and 21 of, and paragraph 4(1) and (4) of Schedule 1 to, the Finance Act 2002 (c. 23), section 4(4) of the Finance Act 2004 (c. 12) and paragraphs 33 and 36 of Part 2 of Schedule 6 to the Finance Act 2008 (c. 9).

(6) Section 14(5) applies to notices given under this section as it applies to notices given under section 14.”.

**201.**—(1) Section 15 (review procedure) is amended as follows.

(2) In subsection (1) for “this Chapter” substitute “section 14 or 14A”.

(3) In subsection (2)—

(a) in paragraph (a), after “section 14” insert “or 14A”; and

(b) in the words after paragraph (b), for “this Chapter” substitute “section 14 or 14A”.

**202.** After section 15 insert—

#### **“15A Offer of review of relevant decision**

(1) If HMRC notify a person (P) of a relevant decision by HMRC, HMRC must at the same time, by notice to P, offer P a review of the decision.

(2) This section does not apply to the notification of the conclusions of a review.

#### **15B Right to require review**

(1) Any person (other than P) who has the right of appeal under section 16 against a relevant decision may require HMRC to review that decision.

(2) The other person may not notify HMRC requiring a review of the decision if either of the following conditions is met.

(3) Condition A is that—

(a) the relevant decision falls within section 14(1)(b) (decision linked to decision under section 152(b) of the Management Act about things forfeited or seized), and

(b) under section 15, HMRC are reviewing, or have reviewed, the decision under section 152(b) of the Management Act to which the relevant decision is linked.

(4) Condition B is that P or the other person has brought an appeal under section 16 with respect to the relevant decision.

(5) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

#### **15C Review by HMRC**

(1) HMRC must review a decision if—

(a) they have offered a review of the decision under section 15A, and

(b) P notifies HMRC of acceptance of the offer within 30 days beginning with the date of the document containing the notification of the offer of the review.

(2) P may not notify HMRC of acceptance of the offer of review if either of the following conditions is met.

(3) Condition A is that—

(a) the relevant decision falls within section 14(1)(b) (decision linked to decision under section 152(b) of the Management Act about things forfeited or seized), and

(b) under section 15, HMRC are reviewing, or have reviewed, the decision under section 152(b) of the Management Act to which the relevant decision is linked.

(4) Condition B is that P has brought an appeal under section 16 with respect to the relevant decision.

(5) HMRC must review a decision if a person other than P notifies them under section 15B.

(6) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 16 in respect of the decision.

### **15D Extensions of time**

(1) If under section 15A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 15B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) section 15C(1)(b) (in a case falling within subsection (1)), or
  - (ii) section 15B(5) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

### **15E Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 15A and P does not accept the offer within the time allowed under section 15C(1) or 15D(1); or
- (b) a person who requires a review under section 15B does not notify HMRC within the time allowed under that section or section 15D(3).

(2) HMRC must review the decision if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not be required to review a decision under this section if Condition A is met (see sections 15B(3) and 15C(3)).

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 16 in respect of the decision.

### **15F Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 15C or 15E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purposes of subsection (2) HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in making the decision, and
- (b) by any person who is seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or

(c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) the period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 15A),
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 15B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 15E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.”.

**203.**—(1) Section 16 (appeals to a tribunal)(a) is amended as follows.

(2) For subsection (1) substitute—

“(1) An appeal against a decision on a review under section 15 (not including a deemed confirmation under section 15(2)) may be made to an appeal tribunal within the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates.

(1A) An appeal against a deemed confirmation under section 15(2) may be made to an appeal tribunal within the period of 75 days beginning with the date on which the review was required.

(1B) Subject to subsections (1C) to (1E), an appeal against a relevant decision (other than any relevant decision falling within subsection (1) or (1A)) may be made to an appeal tribunal within the period of 30 days beginning with—

- (a) in a case where P is the appellant, the date of the document notifying P of the decision to which the appeal relates, or
- (b) in a case where a person other than P is the appellant, the date the other person becomes aware of the decision, or
- (c) if later, the end of the relevant period (within the meaning of section 15D).

(1C) In a case where HMRC are required to undertake a review under section 15C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(1D) In a case where HMRC are requested to undertake a review in accordance with section 15E—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—

---

(a) Section 16 has been amended. Subsection (3A) was inserted by paragraph 11 of Schedule 2 to the Finance Act 1998 (c. 36) and subsection (8) was amended and subsections (9) and (10) were inserted by section 16(3) and (4) of the Finance Act 1995 (c. 4).

- (i) the conclusion date (if HMRC decide to undertake a review), or
- (ii) the date on which HMRC decide not to undertake a review.

(1E) In a case where section 15F(8) applies, a notice of appeal may be made at any time from the end of the period specified in section 15F(6) to the date 30 days after the conclusion date.

(1F) An appeal may be made after the end of the period specified in subsection (1), (1A), (1B), (1C)(b), (1D)(b) or (1E) if the appeal tribunal gives permission to do so.

(1G) In this section “conclusion date” means the date of the document notifying the conclusion of the review”.

(3) In subsection (2) after “section” insert—

“with respect to a decision falling within subsection (1) or (1A)”.

(4) After subsection (2) insert—

“(2A) An appeal under this section with respect to a relevant decision (other than any relevant decision falling within subsection (1) or (1A)) shall not be entertained unless the appellant is—

- (a) a person whose liability to pay any relevant duty or penalty is determined by, results from or is or will be affected by the relevant decision,
- (b) a person in relation to whom, or on whose application, the relevant decision has been made, or
- (c) a person on whom the conditions, limitations, restrictions, prohibitions or other requirements to which the relevant decision relates are or are to be imposed or applied.”.

(5) In subsection (3) for the words before paragraph (a) substitute—

“(3) An appeal which relates to a relevant decision falling within any of paragraphs (a) to (h) of section 13A(2), or which relates to a decision on a review of any such relevant decision, shall not be entertained if the amount of relevant duty which HMRC have determined to be payable in relation to that decision has not been paid or deposited with them unless—”.

(6) After subsection (3A) insert—

“(3B) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(a) shall have effect as if—

- (a) the references to section 83 of that Act included references to this section, and
- (b) the references to value added tax included references to any relevant duty.”.

(7) In subsection (4)(b) and (c) for “a further review” substitute “a review or further review as appropriate”.

(8) In subsection (8) for “section 14(1)(a) to (c)” substitute “section 13A(2)(a) to (h)”.

(9) After subsection (10) insert—

“(11) If it appears to HMRC that there is any description of decisions falling to be made for the purposes of any provision of—

- (a) the Community Customs Code,
- (b) any Community legislation made for the purpose of implementing that Code, or
- (c) any enactment or subordinate legislation so made,

which are not decisions to which sections 13A to 16 otherwise apply, HMRC may by regulations provide for those sections to apply to decisions of that description as they apply to relevant decisions or the decisions referred to in section 14.

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(a) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.



(12) The power to make regulations under subsection (11) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—

- (a) to provide, in relation to any description of decisions to which this section is applied by any such regulations, that subsection (4) shall have effect as if those decisions were of a description specified in Schedule 5 to this Act; and
- (b) to make such other incidental, supplemental, consequential and transitional provision as HMRC think fit.”.

**204.** In section 17(2) (interpretation) after the entry for “the Community Customs Code” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

**205.**—(1) Section 59 (insurance premium tax: review of Commissioners’ decisions)(a) is amended as follows.

(2) For the heading substitute “Appeals”.

(3) For the first paragraph of subsection (1) substitute—

“(1) Subject to section 60, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any decision of HMRC with respect to the any of the following matters—.”.

(4) Omit subsections (2) to (8).

**206.** After section 59 insert—

#### **“59A Offer of review**

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 59 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This section does not apply to the notification of the conclusions of a review.

#### **59B Right to require review**

(1) Any person (other than P) who has the right of appeal under section 59 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under section 59G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

#### **59C Review by HMRC**

(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under section 59A, and
- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 59G.

(3) HMRC must review a decision if a person other than P notifies them under section 59B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 59G in respect of the decision.

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(a) Section 59 was amended by paragraphs 5(3) and (4) of Schedule 5 to the Finance Act 1995 (c. 4).

### **59D Extensions of time**

(1) If under section 59A HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 59B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) section 59C(1)(b) (in a case falling within subsection (1)), or
  - (ii) section 59B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

### **59E Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 59A and P does not accept the offer within the time allowed under section 59C(1)(b) or 59D(3); or
- (b) a person who requires a review under section 59B does not notify HMRC within the time allowed under that section or section 59D(3).

(2) HMRC must review the decision under section 59C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 59G in respect of the decision.

### **59F Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 59C or 59E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 59A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 59B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 59E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.

### **59G Bringing of appeals**

(1) An appeal under section 59 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
  - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
  - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 59D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 59C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review by virtue of section 59E—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where section 59F(8) applies, an appeal may be made at any time from the end of the period specified in section 59F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusion of the review.”.

**207.**—(1) Section 60 (appeals) is amended as follows.

(2) For the heading substitute “Further provisions relating to appeals”.

(3) Omit subsection (1).

(4) In subsection (2) for “subsection (1)” substitute “section 59”.

(5) Omit subsection (3).

(6) For subsection (4) substitute—

“(4) Subject to subsections (4A) and (4B), where the appeal is against the decisions with respect to any of the matters mentioned in section 59(1)(b) and (d), it shall not be entertained unless the amount which HMRC have determined to be payable as tax has been paid or deposited with them.

(4A) In a case where the amount determined to be payable as tax has not been paid or deposited an appeal shall be entertained if—

(a) HMRC are satisfied (on the application of the appellant), or

(b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(4B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

(7) In subsection (6) “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996(a)”.

(8) In subsection (7) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

(9) In subsection (8)—

(a) for “the Commissioners” substitute “HMRC”; and

(b) for “the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.” substitute “it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996.”.

(10) After subsection (8) insert—

“(8A) Interest under subsection (8) shall be paid without any deduction of income tax.”.

(11) In subsection (9) for “the Commissioners” substitute “HMRC”.

(12) For subsection (10) substitute—

“(10) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(b) shall have effect as if—

(a) the references to section 83 of that Act included references to section 59 above, and

(b) the references to value added tax included references to insurance premium tax.”.

**208.**—(1) Section 73(1) (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute—

“the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”,

(b) after the definition of “the standard rate” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”

**209.**—(1) Schedule 6 (air passenger duty: administration and enforcement) is amended as follows.

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(a) 1996 c. 8.

(b) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

(2) In paragraph 6 after “any return” insert “for an accounting period to which the appeal relates”.

(3) In paragraph 8(1) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

**210.** Schedule 22 (supplementary provisions as to elections by reference to pipe-line usage) is amended as follows.

**211.**—(1) Paragraph 4 is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

(3) In sub-paragraph (3) for “Commissioners”, in both places, substitute “tribunal”.

(4) In sub-paragraph (4)—

(a) for “Commissioners” (in the first place it appears) substitute “tribunal”;

(b) for “Commissioners allow” substitute “tribunal allows”; and

(c) for “they shall” substitute “the tribunal shall”.

(5) For sub-paragraph (5) substitute—

“(5) In an appeal under sub-paragraph (1)—

(a) paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(a) to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;

(b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (3) above.”.

**212.** In paragraph 7(5)(b) for “Special Commissioners” substitute “tribunal”.

**213.**—(1) Paragraph 8 is amended as follows—

(2) In sub-paragraph (2) omit “to the Special Commissioners”.

(3) In sub-paragraph (4) after “any time” insert “before it is notified to the tribunal”.

(4) In sub-paragraphs (6)(b) and (7) for “Special Commissioners” substitute “tribunal”.

(5) After sub-paragraph (8) insert—

“(9) In an appeal under sub-paragraph (2)—

(a) paragraphs 14A to 14I of Schedule 2 to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;

(b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (6) above.”.

#### **Vehicle Excise and Registration Act 1994**

**214.** The Vehicle Excise and Registration Act 1994(b) is amended as follows.

**215.** In section 7B(3)(b) (section 7A supplements: further provisions)(c) for “14 to 16” substitute “13A to 16”.

#### **Value Added Tax Act 1994**

**216.** The Value Added Tax Act 1994(d) is amended as follows.

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(a) Paragraphs 14A to 14I were inserted by paragraph 75 of this Schedule.

(b) 1994 c. 22.

(c) Section 7B was inserted by section 19(1) of, and paragraphs 1 and 5 of Schedule 5 to, the Finance Act 2002 (c. 23).

(d) 1994 c. 23.

217. For the heading of Part 5 (appeals) substitute “Reviews and Appeals”.

218. For section 82 (appeal tribunals) substitute—

**“82 Meaning of “tribunal”**

In this Act “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

219.—(1) Section 83 (appeals)(a) is amended as follows.

(2) Before “Subject to” insert “(1)”.

(3) For “section 84” substitute “sections 83G and 84”.

(4) For “a tribunal” substitute “the tribunal”.

(5) After paragraph (zc) insert—

“(2) In the following provisions of this Part, a reference to a decision with respect to which an appeal under this section lies, or has been made, includes any matter listed in subsection (1) whether or not described there as a decision.”.

220. After section 83 (appeals) insert—

**“83A Offer of review**

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 83 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This section does not apply to the notification of the conclusions of a review.

**83B Right to require review**

(1) Any person (other than P) who has the right of appeal under section 83 against a decision may require HMRC to review that decision if that person has not appealed to the tribunal under section 83G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

**83C Review by HMRC**

(1) HMRC must review a decision if—

(a) they have offered a review of the decision under section 83A, and

(b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under section 83G.

(3) HMRC must review a decision if a person other than P notifies them under section 83B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

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(a) Section 83 has been amended by section 31(3) of, and paragraph 12 of Schedule 3 to, the Finance Act 1996 (c. 8), sections 45(2), 46(3) and 47(7) of the Finance Act 1997 (c. 16), paragraphs 3 and 6 of Schedule 2 to the Finance Act 1999 (c. 16), section 137 of the Finance Act 2000 (c. 17), sections 23(2) and 24(4)(b) of the Finance Act 2002 (c. 23), sections 17 and 18(2) of the Finance Act 2003 (c. 14), section 22(3) of, and paragraph 4 of Part 2 of Schedule 2 to, the Finance Act 2004 (c. 12), section 5 of the Finance (No 2) Act 2005 (c. 22), section 21 of the Finance Act 2006 (c. 25), section 93(8) of the Finance Act 2007 (c. 11), article 2 of S.I. 1997/2542, regulation 17 of S.I. 2001/3641, paragraph 1(1) of Schedule 2 to S.I. 2003/3075, paragraph 1 of Schedule 6 to S.I. 2007/2157 and article 3 of S.I. 2008/1146.

### **83D Extensions of time**

(1) If under section 83A HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 83B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) section 83C(1)(b) (in a case falling within subsection (1)), or
  - (ii) section 83B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

### **83E Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 83A and P does not accept the offer within the time allowed under section 83C(1)(b) or 83D(3); or
- (b) a person who requires a review under section 83B does not notify HMRC within the time allowed under that section or section 83D(3).

(2) HMRC must review the decision under section 83C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

### **83F Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 83C or 83E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 83A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 83B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 83E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.

### **83G Bringing of appeals**

(1) An appeal under section 83 is to be made to the tribunal before—

- (a) the end of the period of 30 days beginning with—
  - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
  - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 83D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 83C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review in accordance with section 83E—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where section 83F(8) applies, an appeal may be made at any time from the end of the period specified in section 83F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.”.



**221.**—(1) Section 84 (further provisions relating to appeals)(a) is amended as follows.

(2) Omit subsection (2).

(3) For subsection (3) substitute—

“(3) Subject to subsections (3B) and (3C), where the appeal is against a decision with respect to any of the matters mentioned in section 83(1)(b), (n), (p), (q), (ra) or (zb), it shall not be entertained unless the amount which HMRC have determined to be payable as VAT has been paid or deposited with them.”.

(4) For subsection (3A) substitute—

“(3A) Subject to subsections (3B) and (3C), where the appeal is against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, it shall not be entertained unless the amount notified by the assessment has been paid or deposited with HMRC.”.

(5) After subsection (3A) insert—

“(3B) In a case where the amount determined to be payable as VAT or the amount notified by the recovery assessment has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
  - (b) the tribunal decides (HMRC not being so satisfied and on the application of the appellant),
- that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(3C) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.”.

(6) In subsection (4) in paragraphs (a) and (b) and in the words following paragraph (c) for “the Commissioners” substitute “HMRC”.

(7) In subsections (4ZA), (4A)(a), (4C), (4D), (7), (7ZA) and (7B) for “the Commissioners” substitute “HMRC”.

(8) In subsections (4ZA)(a), (5), (6), (6A), (6B), (7), (7A), (7ZA) and (7B) for “83” substitute “83(1)”.

(9) In subsection (4E) for “the Commissioners satisfy” substitute “HMRC satisfies”.

(10) Omit subsection (8).

(11) In subsection (9)—

- (a) after “section 14” add “or 15A”;
- (b) in paragraph (b) for “the Commissioners” substitute “HMRC”;
- (c) at the end of paragraph (b) insert “and”; and
- (d) after paragraph (b) insert—
  - “(c) a review is not being undertaken following a request under section 14A of that Act; and
  - (d) a review is not being undertaken under section 15 of that Act as a consequence of section 15B(3), 15C(3) or 15E(3) of that Act.”.

(12) In subsection (10)—

- (a) for “a decision of the Commissioners” substitute “an HMRC decision”;
- (b) omit “by them”.

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(a) Section 84 has been amended by sections 31 and 162 of, and Part VI of Schedule 29 to, the Finance Act 1995 (c. 4), section 31(4) of the Finance Act 1996 (c. 8), sections 31(3) and 45(3) of the Finance Act 1997 (c. 36), paragraph 4 of Schedule 2 to the Finance Act 1999 (c. 16), section 23(3) of the Finance Act 2002 (c. 23), section 17(7) and 18(3) of the Finance Act 2003 (c. 14), paragraph 5 of Schedule 2 to the Finance Act 2004 (c. 12), sections 21(1) and (5) of the Finance Act 2006 (c. 25), section 93(9) of the Finance Act 2007 (c. 11) and article 3(1) of 2008/1146.

**222.**—(1) Section 85 (settling appeals by agreement) is amended as follows.

(2) In subsection (1) at the end, omit “(including any terms as to costs)”.

(3) For “the Commissioners” (in each place) substitute “HMRC”.

**223.** After section 85 insert—

**“85A Payment of tax on determination of appeal**

(1) This section applies where the tribunal has determined an appeal under section 83.

(2) Where on the appeal the tribunal has determined that—

(a) the whole or part of any disputed amount paid or deposited is not due, or

(b) the whole or part of any VAT credit due to the appellant has not been paid,

so much of that amount, or of that credit, as the tribunal determines not to be due or not to have been paid shall be paid or repaid with interest at the rate applicable under section 197 of the Finance Act 1996<sup>(a)</sup>.

(3) Where on the appeal the tribunal has determined that—

(a) the whole or part of any disputed amount not paid or deposited is due, or

(b) the whole or part of any VAT credit paid was not payable,

so much of that amount, or of that credit, as the tribunal determines to be due or not payable shall be paid or repaid to HMRC with interest at the rate applicable under section 197 of the Finance Act 1996.

(4) Interest under subsection (3) shall be paid without any deduction of income tax.

(5) Nothing in this section requires HMRC to pay interest—

(a) on any amount which falls to be increased by a supplement under section 79 (repayment supplement in respect of certain delayed payments or refunds); or

(b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

**85B Payment of tax where there is a further appeal**

(1) Where a party makes a further appeal, notwithstanding that the further appeal is pending, value added tax or VAT credits, or a credit of overstated or overpaid value added tax shall be payable or repayable in accordance with the determination of the tribunal or court against which the further appeal is made.

(2) But if the amount payable or repayable is altered by the order or judgment of the tribunal or court on the further appeal—

(a) if too much value added tax has been paid or the whole or part of any VAT credit due to the appellant has not been paid the amount overpaid or not paid shall be refunded with such interest, if any, as the tribunal or court may allow; and

(b) if too little value added tax has been charged or the whole or part of any VAT credit paid was not payable so much of the amount as the tribunal or court determines to be due or not payable shall be due or repayable, as appropriate, at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment of that tribunal or court.

(3) If, on the application of HMRC, the relevant tribunal or court considers it necessary for the protection of the revenue, subsection (1) shall not apply and the relevant tribunal or court may—

(a) give permission to withhold any payment or repayment; or

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(a) 1996 c. 8.

(b) require the provision of adequate security before payment or repayment is made.

(4) If, on the application of the original appellant, HMRC are satisfied that financial extremity might be reasonably expected to result if payment or repayment is required or withheld as appropriate, HMRC may do one or more of the things listed in subsection (6).

(5) If on the application of the original appellant, the relevant tribunal or court decides that—

- (a) the original appellant has applied to HMRC under subsection (4),
- (b) HMRC have decided that application,
- (c) financial extremity might be reasonably expected to result from that decision by HMRC,

the relevant tribunal or court may replace, vary or supplement the decision by HMRC by doing one or more of the things listed in subsection (6).

(6) These are the things which HMRC or the relevant tribunal or court may do under subsection (4) or (5)—

- (a) decide how much, if any, of the amount under appeal should be paid or repaid as appropriate,
- (b) require the provision of adequate security from the original appellant,
- (c) stay the requirement to pay or repay under subsection (1).

(7) Subsections (3) to (6) cease to have effect when the further appeal has been determined.

(8) In this section—

“adequate security” means security that is of such amount and given in such manner—

- (a) as the tribunal or court may determine (in a case falling within subsection (3) or (5)), or
- (b) as HMRC consider adequate to protect the revenue (in a case falling within subsection (4));

“further appeal” means an appeal against—

- (a) the tribunal’s determination of an appeal under section 83, or
- (b) a decision of the Upper Tribunal or a court that arises (directly or indirectly) from that determination;

“original appellant” means the person who made the appeal to the tribunal under section 83;

“relevant tribunal or court” means the tribunal or court from which permission or leave to appeal is sought.”.

**224.** Omit sections 86 and 87.

**225.** In section 96(1) (other interpretative provisions) before the definition of “invoice” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

**226.**—(1) Section 97 (orders, rules and regulations) is amended as follows.

- (2) In subsection (1) after “the Treasury” omit “or the Lord Chancellor”,
- (3) Omit subsection (2).

**227.** For paragraph 20(2) of Schedule 3B (supply of electronic services in member states: special accounting scheme) substitute—

“(2) Part 5 (appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).”

**228.** Omit Schedule 12.

229. Omit paragraph 12 of Schedule 14.

### **Finance Act 1995**

230. The Finance Act 1995(a) is amended as follows.

231.—(1) Section 5(4) (denatured alcohol) is amended as follows.

(2) For “14 to 16” substitute “13A to 16”.

(3) For “specified in Schedule 5 to that Act” substitute “falling within section 13A(2)(j) of that Act”.

### **Finance Act 1996**

232. The Finance Act 1996(b) is amended as follows.

233. For section 46(2)(c) (power to vary) substitute—

“(c) provide for reviews and appeals relating to decisions about certificates.”.

234.—(1) Section 54 (landfill tax: review of commissioners’ decisions)(c) is amended as follows.

(2) For the heading, substitute “Appeals”.

(3) For “This section applies to the following decisions of the Commissioners” substitute “Subject to section 55, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any of the following decisions—”

(4) Omit subsections (3) to (8).

235. After section 54 insert—

#### **“54A Offer of review**

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 54 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This section does not apply to the notification of the conclusions of a review.

#### **54B Right to require review**

(1) Any person (other than P) who has the right of appeal under section 54 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under section 54G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

#### **54C Review by HMRC**

(1) HMRC must review a decision if—

(a) they have offered a review of the decision under section 54A, and

(b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 54G.

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(a) 1995 c. 4.

(b) 1996 c. 8.

(c) Section 54 was amended by S.I. 1996/1529.

(3) HMRC must review a decision if a person other than P notifies them under section 54B.

(4) HMRC shall not be required to review a decision if P, or another person, has appealed to the appeal tribunal under section 54G in respect of the decision.

#### **54D Extensions of time**

(1) If under section 54A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 54B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) section 54C(1)(b) (in a case falling within subsection (1)), or
  - (ii) section 54B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

#### **54E Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 54A and P does not accept the offer within the time allowed under section 54C(1)(b) or 54D(3); or
- (b) a person who requires a review under section 54B does not notify HMRC within the time allowed under that section or section 54D(3).

(2) HMRC must review the decision under section 54C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not be required to review a decision if P, or another person, has appealed to the appeal tribunal under section 54G in respect of the decision.

#### **54F Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 54C or 54E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 54A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 54B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 54E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the conclusion of the review is deemed to be that the decision is upheld.

(9) HMRC must notify the appellant of any conclusion under subsection (8).

#### **54G Bringing of appeals**

(1) An appeal under section 54 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
  - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
  - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 54D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 54C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review by virtue of section 54E—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where section 54F(8) applies, an appeal may be made at any time from the end of the period specified in section 54F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.”.

**236.**—(1) Section 55 (appeals: general) is amended as follows.

(2) For the heading substitute “Appeals: further provisions”.

(3) Omit subsection (1).

(4) Omit subsection (2).

(5) For subsection (3) substitute—

“(3) Subject to subsections (3A) and (3B), where an appeal under section 54 relates to a decision falling within section 54(1)(b) or (d), it shall not be entertained unless the amount which HMRC have determined to be payable as tax has been paid or deposited with them.”.

(6) After subsection (3) insert—

“(3A) In a case where the amount determined to be payable as tax has not been paid or deposited an appeal may be entertained if—

(a) HMRC are satisfied (on the application of the appellant), or

(b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(3B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.”.

**237.**—(1) Section 56 (appeals: other provisions) is amended as follows.

(2) Omit subsection (1).

(3) For “Where on the appeal” substitute “Where on an appeal under section 54”.

(4) In subsection (3) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of this Act”.

(5) In subsection (4) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of this Act”.

(6) In subsection (5) for “the tribunal may, if it thinks fit, direct that the amount shall be paid with interest at such rate as may be specified in the direction” substitute “it shall be paid with interest at the rate applicable under section 197 of this Act”.

(7) After subsection (5) insert—

“(5A) Interest under subsection (5) shall be paid without any deduction of income tax.”.

(8) For subsection (8) substitute—

“(8) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(a) shall have effect as if—

(a) the references to section 83 of that Act included references to section 54 of this Act, and

(b) the references to value added tax included references to landfill tax.”.

**238.**—(1) Section 70(1) (interpretation) is amended as follows.

(2) In the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

(3) After the definition of “the Environment Agency” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

**239.**—(1) Section 197 (setting of rates of interest)(b) is amended as follows.

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(a) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

(b) Section 197(2) has been amended by paragraph 21 of Schedule 5 to the Finance Act 1997 (c. 16), section 130(3) and (4) of, and Schedule 20 to, the Finance Act 1999 (c. 16), paragraph 6 of Schedule 7 to the Finance Act 2000 (c. 17), section 49(2) of, and paragraph 18(1) of Schedule 3 to, the Finance Act 2001 (c. 9) and section 132(2) of the Finance Act 2002 (c. 23).

- (2) In subsection (2)—
- (a) in paragraph (a) for “paragraph 7” substitute “paragraphs 7 and 8(1)”;
  - (b) in paragraph (b) before “paragraphs” insert “sections 60(6), (7) and (8) of and”;
  - (c) in paragraph (c) for “74 and 78” substitute “74, 78 and 85A(2) and (3)”;
  - (d) in paragraph (d) before “paragraphs” insert “sections 56(3) to (5) of and”;
  - (e) in paragraph (g) for “and 81(3)” substitute “, 81(3) and 123(4) to (6)”;
  - (f) in paragraph (h)(i) for “and 30(3)(f)” substitute “, 30(3)(f) and 42(4) to (6)”;
  - (g) in paragraph (i) for “II and III” substitute “2 and 3”.

**240.**—(1) Schedule 5 (reviews) is amended as follows.

- (2) In paragraph 19—
- (a) in sub-paragraph (5)(a) and (5)(b) for “require a review of” substitute “appeal against”;
  - and
  - (b) for sub-paragraph (5)(c) substitute—
    - “(c) sections 54 to 56 of this Act shall apply accordingly.”.
- (3) For the heading before paragraph 59 substitute “Reviews and Appeals”.
- (4) In paragraph 59—
- (a) for “Section 54” substitute “Sections 54 to 56”;
  - (b) for “as it applies” substitute “as they apply”; and
  - (c) for “subsection (1) of that section” substitute “section 54(1)”.

### **Finance Act 1997**

**241.** The Finance Act 1997(a) is amended as follows.

**242.**—(1) Section 11(7) (rate of gaming duty) is amended as follows.

- (2) For “14 to 16” substitute “13A to 16”.
- (3) For “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.

**243.**—(1) Schedule 1 (gaming duty: administration, enforcement etc) is amended as follows.

- (2) In paragraph 8(11)—
- (a) for “14 to 16” substitute “13A to 16”; and
  - (b) for “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.
- (3) In paragraph 9(5)—
- (a) for “14 to 16” substitute “13A to 16”; and
  - (b) for “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.

**244.**—(1) In Schedule 5 (indirect taxes: overpayments etc) paragraph 19 is amended as follows.

- (2) In sub-paragraph (1)—
- (a) for “14 to 16” substitute “13A to 16”; and
  - (b) for “14(1)(b)” substitute “13A(2)(b)”.
- (3) In sub-paragraph (2) for “59 and 60” substitute “59 to 60”.

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(a) 1997 c. 16.



## **Finance (No 2) Act 1997**

**245.** The Finance (No 2) Act 1997(a) is amended as follows.

**246.**—(1) Section 35(9) (transitional relief for charities etc) is amended as follows.

(2) Omit “An appeal under this section shall lie to the Special Commissioners, and”.

## **Social Security Act 1998**

**247.** The Social Security Act 1998(b) is amended as follows.

**248.** In section 10A(2)(d) (reference of issues by Secretary of State to Inland Revenue)(c)—

(a) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”; and

(b) for “their decision” substitute “the tribunal’s decision”.

**249.** In section 24A(2)(c) (appeals dependent on issues falling to be decided by Inland Revenue)(d) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”.

**250.** In section 39 (interpretation etc of Chapter II) omit the definition of “tax appeal Commissioners”.

## **Finance Act 1998**

**251.** The Finance Act 1998(e) is amended as follows.

**252.** For section 111(5)(c) (notice to potential claimants) substitute—

“(c) he will be entitled, by virtue of paragraph 12(4) of that Schedule, to be a party to any proceedings on an appeal relating to that determination.”.

**253.** Schedule 18 (company tax returns, assessments and related matters) is amended as follows.

**254.** In paragraph 27(5)(b)(f) for “Special Commissioners” substitute “tribunal”.

**255.**—(1) Paragraph 28 is amended as follows.

(2) In sub-paragraph (3) omit “heard and”.

(3) In sub-paragraph (4)—

(a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and

(b) omit “to them” (in both places).

(4) In sub-paragraphs (5) and (6) for “Commissioners” substitute “tribunal”.

**256.** In paragraph 29(2)(b) for “Commissioners” substitute “tribunal”.

**257.** For paragraph 30(5) substitute—

“(5) None of the steps mentioned in section 49A(2)(a) to (c) of the Taxes Management Act 1970 may be taken in relation to the appeal before the completion of the enquiry.”.

**258.**—(1) Paragraph 31A(g) is amended as follows.

(2) In the heading for “Special Commissioners” substitute “ the tribunal”.

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(a) 1997 c. 58.

(b) 1998 c. 14.

(c) Section 10A was inserted by paragraph 24 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(d) Section 24A was inserted by paragraph 33 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 and subsection (2)(c) was amended by paragraph 160 of S.I. 2008/2833.

(e) 1998 c. 36.

(f) Paragraph 27(5) was amended by paragraph 38(4) of Schedule 29 to the Finance Act 2001 (c. 9).

(g) Paragraphs 31A to 31D inserted by section 88 and paragraph 7 of Schedule 29 to the Finance Act 2001 and amended by paragraph 68 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005.

(3) In sub-paragraph (1) for “Special Commissioners” substitute “tribunal” and omit “their”.

(4) In sub-paragraph (2)—

(a) omit paragraph (b); and

(b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.

(5) Omit sub-paragraph (3).

**259.**—(1) Paragraph 31B is amended as follows.

(2) In sub-paragraph (1) omit “by notice in accordance with this paragraph”.

(3) Omit sub-paragraph (2).

**260.** In paragraph 31C(3)(a) for “Special Commissioners” substitute “tribunal”.

**261.** In paragraph 31D(1) for “Special Commissioners” substitute “tribunal”.

**262.**—(1) Paragraph 33(a) is amended as follows.

(2) In sub-paragraph (1) for “Commissioners” substitute “tribunal”.

(3) For sub-paragraph (2) substitute—

“(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

(4) In sub-paragraph (3)—

(a) for “Commissioners hearing the application” substitute “tribunal”; and

(b) omit “they are”.

**263.** For paragraph 50(3) substitute—

“(3) An appeal may be brought against the Board’s decision on a claim for relief under this paragraph.”.

**264.**—(1) Paragraph 51 is amended as follows.

(2) In sub-paragraph (5) for “Special Commissioners shall hear and” substitute “tribunal shall”.

(3) In sub-paragraph (6)—

(a) omit “under section 56A of the Taxes Management Act 1970”; and

(b) for “Special Commissioners” substitute “tribunal”.

**265.** Insofar as paragraph 89(1)(b)(b) continues to apply in relation to tax years preceding the tax year 2008-09 it is to have effect as if “tribunal” were substituted for “Special or General Commissioners”.

**266.** Omit paragraph 92(3).

**267.** Omit paragraphs 93 and 94.

### **Social Security Contributions (Transfer of Functions, etc) Act 1999**

**268.** The Social Security Contributions (Transfer of Functions, etc) Act 1999(c) is amended as follows.

**269.** In section 10(1)(c) (decisions varying or superseding earlier decisions)(d) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”.

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(a) Paragraph 33 was amended by paragraph 68 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005.

(b) Paragraph 89 was repealed by Part 5(5) of Schedule 27 to the Finance Act 2007 (c. 11).

(c) 1999 c. 2.

(d) Section 10 was amended by section 77(6) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

**270.** In section 11(2) (appeals against decisions of board)(a) for “tax appeal Commissioners”, in each place, substitute “tribunal”.

**271.**—(1) Section 12 (exercise of right of appeal) is amended as follows.

(2) For subsection (3) substitute—

“(3) The notice of appeal shall specify the grounds of appeal.”.

(3) Omit subsections (4) and (5).

**272.**—(1) Section 13 (regulations with respect to appeals)(b) is amended as follows.

(2) In subsection (1) for “tax appeal Commissioners” substitute “tribunal”.

(3) In subsection (2)—

(a) omit paragraph (a)(i);

(b) in paragraph (a)(ii) for “tax appeal Commissioners” substitute “tribunal”;

(c) in paragraph (a)(iii) “for sections 56 and 56A (appeals from their decisions)” substitute “section 56 (payment of tax where there is a further appeal)”; and

(d) in paragraph (b) for “tax appeal Commissioners” substitute “tribunal”.

(4) Omit subsections (3) to (5).

**273.**—(1) Section 14 (matters arising as respects decisions) is amended as follows.

(2) In subsections (1)(b) and (2)(a) for “tax appeal Commissioners” substitute “tribunal”.

**274.** For section 19 substitute—

“**19.** Interpretation of Part II

In this Part—

“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**275.** In Schedule 7 omit paragraphs 2 and 3.

## **Finance Act 1999**

**276.** The Finance Act 1999(c) is amended as follows.

**277.** In Schedule 11 (company tax returns etc) omit paragraph 9.

**278.** Part II of Schedule 17 (determination of penalty and appeals) is amended as follows.

**279.** For the heading substitute “Determination of penalty, reviews and appeals”.

**280.** After paragraph 9(2) insert—

“(3) For the purposes of this Part “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**281.**—(1) Paragraph 11 is amended as follows.

(2) In sub-paragraph (1) for “lies to the Special Commissioners” substitute “may be made”.

(3) Omit sub-paragraph (3).

(4) For sub-paragraph (4) substitute—

“(4) The notice of appeal must specify the grounds of appeal.”.

(5) After sub-paragraph (4) insert—

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(a) Subsection (2)(a) was amended by section 9(4) of the Employment Act 2002 (c. 22) and paragraph 57 of Schedule 1 to the Work and Families Act 2006 (c. 18).

(b) Section 13(1) was amended by S.I. 1999/678.

(c) 1999 c. 16.

“(4A) Sections 49A to 49I of the Taxes Management Act 1970(a) shall apply to appeals under this paragraph, subject to the modifications in sub-paragraphs (4B) to (4E).

(4B) In the application of section 49C(4) for “contained in an agreement in writing under section 54(1) for the settlement of the matter” there is to be substituted “a written agreement under paragraph 10(3)(b) of Schedule 17 to the Finance Act 1999”.

(4C) Section 49C(5) and (6) are not to apply.

(4D) In the application of section 49F(2) for “an agreement in writing under section 54(1) for the settlement of the matter in question” there is to be substituted “a written agreement under paragraph 10(3)(b) of Schedule 17 to the Finance Act 1999”,

(4E) Sections 49F(3) and (4) are not to apply.

(4F) References to “the tribunal” are to be taken to be references to the “First-tier Tribunal.”.

(6) Omit sub-paragraph (5).

(7) In sub-paragraph (6)—

(a) for “Special Commissioners” substitute “First-tier Tribunal”;

(b) omit “to them” in each place; and

(c) for “they consider”, in both places, substitute “the First-tier Tribunal considers”.

**282.** After paragraph 11 insert—

“**11A.**—(1) This paragraph applies in a case where—

(a) notice of appeal may be given to HMRC, but

(b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—

(a) HMRC agree, or

(b) where HMRC do not agree, the tribunal gives permission.

(3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.

(4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

(5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.

(6) Condition C is that HMRC are satisfied that the request under sub-paragraph (4) was made without unreasonable delay after the reasonable excuse ceased.

(7) If a request of the kind referred to in sub-paragraph (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.

(8) In this paragraph “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this paragraph).”.

**283.**—(1) Paragraph 12 is amended as follows.

(2) Omit sub-paragraph (1).

(3) For sub-paragraph (2) substitute—

“(2) 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 the penalty which had been determined under paragraph 11(6) above, but not against any decision which falls under section 11(5)(d) or

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(a) 1970 c. 9. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

(e) of that Act and was made in connection with the determination of the amount of the penalty.

(2A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (2) as it applies to the right of appeal under section 11(2) of that Act.”.

(4) In sub-paragraph (3)—

- (a) for “court” substitute “Upper Tribunal”; and
- (b) for “Special Commissioners” substitute “First-tier Tribunal”.

### **Welfare Reform and Pensions Act 1999**

**284.**—(1) Section 11 of the Welfare Reform and Pensions Act 1999(a) (effect of bankruptcy on pension rights: approved arrangements) is amended as follows.

(2) In subsection (4)(b) for “General or Special Commissioners” substitute “tribunal”.

(3) In subsection (5)(a) for “General or Special Commissioners’ ” substitute “tribunal’s”.

### **Finance Act 2000**

**285.** The Finance Act 2000(b) is amended as follows.

**286.** Schedule 6 (climate change levy, review and appeal) is amended as follows.

**287.**—(1) Paragraph 99 is amended as follows.

(2) In sub-paragraph (5) for “reviewed” substitute “appealed”.

(3) In sub-paragraph (6)—

- (a) for “reviewed” substitute “appealed”; and
- (b) for “122 and 123” substitute “121A to 123”.

(4) In sub-paragraph (7)—

- (a) for “reviewed” substitute “appealed”; and
- (b) for “122 and 123” substitute “121A to 123”.

**288.**—(1) Paragraph 121 is amended as follows.

(2) For the heading substitute “Appeals”.

(3) In sub-paragraph (1), for the words before paragraph (a) substitute—

“(1) Subject to paragraph 122, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any decision of HMRC with respect to any of the following matters—”.

(4) In sub-paragraph (1)(h) for “reviewable” substitute “appealable”.

(5) Omit sub-paragraphs (2) to (9).

**289.** After paragraph 121 insert—

#### *“Offer of review*

**121A**—(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under paragraph 121 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This paragraph does not apply to the notification of the conclusions of a review.

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(a) 1999 c. 30. Subsections (4) and (5) were amended by article 15(3)(c) and (d) of S.I. 2006/745.  
(b) 2000 c. 17.

### *Right to require review*

**121B**—(1) Any person (other than P) who has the right of appeal under paragraph 121 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under paragraph 121G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

### *Review by HMRC*

**121C**—(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under paragraph 121A, and
- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 121G.

(3) HMRC must review a decision if a person other than P notifies them under paragraph 121B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 121G in respect of the decision.

### *Extensions of time*

**121D**—(1) If under paragraph 121A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under paragraph 121B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this paragraph “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) paragraph 121C(1)(b) (in a case falling within sub-paragraph (1)), or
  - (ii) paragraph 121B(2) (in a case falling within sub-paragraph (2)), or
- (b) if notice has been given under sub-paragraph (1) or (2), that period as extended (or as most recently extended) in accordance with sub-paragraph (3).

### *Review out of time*

**121E**—(1) This paragraph applies if—

- (a) HMRC have offered a review of a decision under paragraph 121A and P does not accept the offer within the time allowed under paragraph 121C(1)(b) or 121D(3); or
- (b) a person who requires a review under paragraph 121B does not notify HMRC within the time allowed under that paragraph or paragraph 121D(3).

(2) HMRC must review the decision under paragraph 121C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and

(c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 121G in respect of the decision.

*Nature of review etc*

**121F**—(1) This paragraph applies if HMRC are required to undertake a review under paragraph 121C or 121E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In sub-paragraph (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within paragraph 121A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within paragraph 121B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within paragraph 121E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

*Bringing of appeals*

**121G**—(1) An appeal under paragraph 121 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
  - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
  - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of paragraph 121D).

(2) But that is subject to sub-paragraphs (3) to (5).

(3) In a case where HMRC are required to undertake a review under paragraph 121C—

- (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of paragraph 121E—
- (a) an appeal may not be made—
    - (i) unless HMRC have decided whether or not to undertake a review, and
    - (ii) if HMRC decide to undertake a review, until the conclusion date; and
  - (b) any appeal is to be made within the period of 30 days beginning with—
    - (i) the conclusion date (if HMRC decide to undertake a review), or
    - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where paragraph 121F(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 121F(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this paragraph “conclusion date” means the date of the document notifying the conclusions of the review.”.

**290.**—(1) Paragraph 122 is amended as follows.

(2) For the heading substitute “Appeals: further provisions”.

(3) Omit sub-paragraph (1).

(4) For sub-paragraph (2) substitute—

“(2) Subject to sub-paragraphs (2A) and (2B), where an appeal relates to a decision (whether or not contained in an assessment) that an amount of levy is due from any person, it shall not be entertained unless the amount which HMRC have determined to be due has been paid or deposited with them.”.

(5) After sub-paragraph (2) insert—

“(2A) In a case where the amount determined to be payable as levy has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(2B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

**291.**—(1) Paragraph 123 is amended as follows.

(2) In sub-paragraph (1)—

- (a) for “122” substitute “121”; and
- (b) in paragraph (a) omit “made, confirmed or treated as confirmed by the Commissioners on a review under paragraph 121 (“the original assessment”)”.

(3) In sub-paragraph (2)—

- (a) for “122” substitute “121”; and
- (b) in paragraph (b)—
  - (i) after “tribunal,” insert “a review or”; and



- (ii) after “decision” insert “as appropriate”.
  - (4) In sub-paragraph (3) for “122” substitute “121”.
  - (5) In sub-paragraph (4)—
    - (a) for the first occurrence of “122” substitute “121”; and
    - (b) for “at such rate as the appeal tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
  - (6) In sub-paragraph (5)—
    - (a) for “122” substitute “121”; and
    - (b) for “at such rate as the appeal tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
  - (7) In sub-paragraph (6)—
    - (a) in paragraph (a) for “122” substitute “121”; and
    - (b) for the words after paragraph (b) substitute—
      - “it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996”.
  - (8) After sub-paragraph (6) insert—
    - “(6A) Interest under sub-paragraph (6) shall be paid without any deduction of income tax. ”.
  - (9) For sub-paragraph (7) substitute—
    - “(7) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(a) shall have effect as if—
      - (a) the references to section 83 of that Act included references to paragraph 121 above, and
      - (b) the references to value added tax included references to climate change levy.”.
- 292.**—(1) Paragraph 147 (interpretation) is amended as follows.
- (2) In the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.
  - (3) After the definition of “gas utility” insert—
    - ““HMRC” means Her Majesty’s Revenue and Customs;”
- 293.**—(1) Schedule 15 (the corporate venturing scheme) is amended as follows.
- (2) in paragraph 91—
    - (a) in sub-paragraph (4) for “Special Commissioners” substitute “tribunal”; and
    - (b) in sub-paragraph (5) for “Special Commissioners that they are” substitute “tribunal that it is”.
  - (3) In paragraph 92(2)(a) for “Special Commissioners” substitute “tribunal”.
- 294.**—(1) Schedule 22 (tonnage tax) is amended as follows.
- (2) In paragraph 43(1) for “lies to the Special Commissioners” substitute “may be made”.
  - (3) In paragraph 126(5)(b) for “lies to the Special Commissioners” substitute “may be made”.
- 295.**—(1) Schedule 38 (regulations for providing incentives for electronic communications) is amended as follows.
- (2) In paragraph 4(3) after “assessments,” insert “reviews,”.

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(a) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

## **Freedom of Information Act 2000**

**296.** In Schedule 1 to the Freedom of Information Act 2000(a) (public authorities)—

- (a) in Part 6 (other public bodies and offices: general) omit “An Advisory Committee on General Commissioners of Income Tax”; and
- (b) in Part 7 (other public bodies and offices: Northern Ireland) omit “An Advisory Committee on General Commissioners of Income Tax (Northern Ireland)”.

## **Capital Allowances Act 2001**

**297.** The Capital Allowances Act 2001(b) is amended as follows.

**298.**—(1) Section 204 (appeals etc) is amended as follows.

(2) In subsection (2) for “Special Commissioners” substitute “tribunal”.

(3) For subsection (3) substitute—

“(3) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

(4) In subsection (4)—

- (a) for “any body of Commissioners” substitute “the tribunal”; and
- (b) for “them” substitute “it”.

(5) In subsection (5) for “Commissioners” substitute “tribunal”;

(6) For subsection (6) substitute—

“(6) Each of the persons who has joined in the election is entitled to be a party to the proceedings of the tribunal concerned with the determination of the question; and the tribunal’s determination has effect as if made in an appeal to which each of those persons was a party.”.

**299.**—(1) Section 563 (procedure for determining certain questions affecting two or more persons) is amended as follows.

(2) Omit subsections (2) to (5).

(3) For subsection (6) substitute—

“(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

**300.** Omit paragraph 5 of Schedule 2.

**301.**—(1) Paragraph 91 of Schedule 3 (disposal of oil licences) is amended as follows.

(2) In sub-paragraph (5)—

- (a) for “the Special Commissioners are” substitute “the tribunal is”; and
- (b) for “they” substitute “the tribunal”.

(3) For sub-paragraph (6) substitute—

“(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

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(a) 2000 c. 36.  
(b) 2001 c. 2.

## **Finance Act 2001**

**302.** The Finance Act 2001(a) is amended as follows.

**303.**—(1) Section 40 (aggregates levy: review of Commissioners' decisions) is amended as follows.

(2) For the heading substitute "Appeals".

(3) In subsection (1)—

(a) for "This section applies to any decision of the Commissioners with respect to any of the following matters" substitute "Subject to section 41, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any decision of HMRC with respect to any of the following matters—";

(b) in paragraph (g) for "reviewable" substitute "appealable";

(c) in paragraph (l) for "any assessment under this Part" substitute—

“(i) an assessment under paragraphs 2 or 3 of Schedule 5 in respect of an accounting period in relation to which any return required to be made by virtue of regulations under section 25 has been made; or

(ii) an assessment under any provision of Schedule 5 other than paragraphs 2 or 3.”.

(4) Omit subsections (2) to (9).

**304.** After section 40 insert—

### **“40A Offer of review**

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 40 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This section does not apply to the notification of the conclusions of a review.

### **40B Right to require review**

(1) Any person (other than P) who has the right of appeal under section 40 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under section 40G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

### **40C Review by HMRC**

(1) HMRC must review a decision if—

(a) they have offered a review of the decision under section 40A, and

(b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 40G.

(3) HMRC must review a decision if a person other than P notifies them under section 40B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 40G in respect of the decision.

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(a) 2001 c. 9.

#### **40D Extensions of time**

(1) If under section 40A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 40B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means—

- (a) the period of 30 days referred to in—
  - (i) section 40C(1)(b) (in a case falling within subsection (1)), or
  - (ii) section 40B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

#### **40E Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 40A and P does not accept the offer within the time allowed under section 40C(1)(b) or 40D(3); or
- (b) a person who requires a review under section 40B does not notify HMRC within the time allowed under that section or section 40D(3).

(2) HMRC must review the decision under section 40C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 40G in respect of the decision.

#### **40F Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 40C or 40E.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P, or the other person, may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 40A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 40B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 40E).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.

#### **40G Bringing of appeals**

(1) An appeal under section 40 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
  - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
  - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 40D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 40C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review by virtue of section 40E—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where section 40F(8) applies, an appeal may be made at any time from the end of the period specified in section 40F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusion of the review.”.

**305.**—(1) Section 41 (appeals against reviewed decisions) is amended as follows.

(2) For the heading substitute “Appeals: further provisions”.

(3) Omit subsection (1).

(4) For subsection (2) substitute—

“(2) Subject to subsections (2A) and (2B), where an appeal under section 40 relates to a decision (whether or not contained in an assessment) that an amount of aggregates levy is due from any person, it shall not be entertained unless the amount which HMRC have determined to be due has been paid or deposited with them.”.

(5) After subsection (2) insert—

“(2A) In a case where the amount determined to be payable as aggregates levy has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(2B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

(6) In section 41(3) for “under this section” substitute “under section 40”.

**306.**—(1) Section 42 (determinations on appeal) is amended as follows.

(2) In subsection (1)—

- (a) for “41” substitute “40”; and
- (b) in paragraph (a) omit “made, confirmed or treated as confirmed by the Commissioners on a review under section 40 above (“the original assessment”)”.

(3) In subsection (2)—

- (a) for “41” substitute “40”; and
- (b) in paragraph (b)—
  - (i) after “tribunal,” insert “a review or”; and
  - (ii) after “decision” insert “as appropriate”.

(4) In subsection (3) for “41” substitute “40”.

(5) In subsection (4)—

- (a) for the first occurrence of “41” substitute “40”; and
- (b) for “at such rate as the tribunal shall determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

(6) In subsection (5)—

- (a) for “41” substitute “40”; and
- (b) for “at such rate as the tribunal shall determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

(7) In subsection (6)—

- (a) in paragraph (a) for “41” substitute “40”,
- (b) for the words after paragraph (b) substitute—

“it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996”.

(8) After subsection (6) insert—

“(6A) Interest under subsection (6) shall be paid without any deduction of income tax.”.

(9) For subsection (7) substitute—

“(7) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(a) shall have effect as if—

- (a) the references to section 83 of that Act included references to section 40 above, and
- (b) the references to value added tax included references to aggregates levy.”.

**307.**—(1) Section 48 (interpretation of part) is amended as follows.

(2) In the definition of “appeal tribunal” for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

(3) After the definition of “gravel” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

**308.** For paragraph 14(4) of Schedule 3 (appeals) substitute—

“(4) The rate of interest is the rate applicable under section 197 of the Finance Act 1996.”

**309.**—(1) Paragraph 8 of Schedule 6 (aggregates levy: evasion, misdeclaration and neglect) is amended as follows.

(2) In sub-paragraph (5) for “reviewed under section 40” substitute “appealed under section 40”.

(3) In sub-paragraph (6)—

- (a) for “reviewed in accordance with section 40” substitute “appealed under section 40”; and
- (b) for “41 and 42” substitute “40A to 42”.

(4) In sub-paragraph (7)—

- (a) for “reviewed under section 40” substitute “appealed under section 40”; and
- (b) for “41 and 42” substitute “40A to 42”.

**310.** Omit paragraph 2 of Schedule 24.

**311.** Omit paragraphs 27 and 28 of Schedule 29.

## **Tax Credits Act 2002**

**312.** The Tax Credits Act 2002(b) is amended as follows.

**313.** For section 19(10) (power to enquire) substitute—

“(10) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and the tribunal must give the direction applied for unless satisfied that the Board have reasonable grounds for not making the decision or giving the notice.”.

**314.**—(1) Section 39 (exercise of right of appeal) is amended as follows.

(2) Omit subsections (3), (4) and (5).

(3) In subsection (6) for “(appeals to Commissioners)” substitute “(appeals and other proceedings)”.

(4) Omit subsection (7).

**315.** In section 48(1) (interpretation) omit the definitions of “the General Commissioners” and “the Special Commissioners”.

**316.**—(1) Section 63 (tax credit appeals etc: temporary modifications)(c) is amended as follows.

(2) For subsection (2) substitute—

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(a) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

(b) 2002 c. 21.

(c) Section 63 was amended by paragraph 191 of Schedule 3 to S.I. 2008/2833.

“(2) Except in the case of an appeal against an employer penalty, an appeal under section 38 is to—

- (a) in Great Britain, the First-tier Tribunal; or
  - (b) in Northern Ireland, the appeal tribunal;
- and in either case section 39(6) shall not apply.”.

(3) For subsection (3) substitute—

“(3) The function of giving a direction under section 19(10) is a function of—

- (a) in Great Britain, the First-tier Tribunal; or
  - (b) in Northern Ireland, the appeal tribunal;
- and in either case the relevant provisions of Part 5 of the Taxes Management Act 1970 shall not apply.”.

(4) For subsection (4) substitute—

“(4) In Northern Ireland, except in the case of an employer information penalty, proceedings under paragraph 3 of Schedule 2 are by way of information in writing, made to the appeal tribunal (rather than to the tribunal), and upon summons issued by them to the defendant to appear before them at a time and place stated in the summons; and they must hear and decide each case in a summary way.”.

(5) In subsection (5)—

- (a) in paragraph (a)—
  - (i) for “General Commissioners or Special Commissioners in sections 19(10) and 39(5)” substitute “tribunal in section 19(10)”;
  - (ii) for “appropriate tribunal” substitute “appeal tribunal”;
  - (iii) omit “and”; and
- (b) omit paragraph (b).

(6) For subsection (6) substitute—

“(6) In Northern Ireland, an appeal under paragraph 2(2) or 4(1) of Schedule 2 from a decision of, or against the determination of a penalty by, the appeal tribunal lies to the Northern Ireland Social Security Commissioner (rather than to the Upper Tribunal).”.

(7) In subsection (7) for “to the High Court and the Court of Session are to the Upper Tribunal or a Northern Ireland Social Security Commissioner” substitute “to the Upper Tribunal are to the Northern Ireland Social Security Commissioner”.

(8) In subsection (8) for “appropriate tribunal or lie to the Upper Tribunal” substitute “appeal tribunal or lie to”.

(9) Omit subsection (9).

(10) For subsection (10) substitute—

“(10) “Appeal tribunal” means an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998.”.

(11) After subsection (13) insert—

“(14) “tribunal” (other than in the expression “appeal tribunal”) shall have the meaning in section 47C of the Taxes Management Act 1970.”.

**317.** Schedule 2 (penalties: supplementary) is amended as follows.

**318.**—(1) Paragraph 2 is amended as follows—

(2) In sub-paragraph (1)—

- (a) omit “to them”;
- (b) for “paragraph 1, the General Commissioners or Special Commissioners” substitute “paragraph 1 that is notified to the First-tier tribunal, the tribunal”; and



(c) in sub-paragraphs (1)(c) and (d) for “they consider” substitute “the First-tier Tribunal considers”.

(3) For sub-paragraph (2) substitute—

“(2) 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 the penalty which has been determined under sub-paragraph (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(2A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (2) as it applies to the right of appeal under section 11(2) of that Act.

(2B) On an appeal under this paragraph the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this paragraph.”.

**319.**—(1) Paragraph 3 is amended as follows.

(2) In the heading for “Commissioners” substitute “tribunal”.

(3) In sub-paragraph (1) after “section 32(2)(a)” insert “before the tribunal”.

(4) For sub-paragraph (2) substitute—

“(2) The person liable to the penalty shall be a party to the proceedings.”.

(5) After sub-paragraph (2) insert—

“(3) “tribunal” is to be read in accordance with section 47C of the Taxes Management Act 1970.”.

**320.**—(1) Paragraph 4 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) 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 determination of a penalty in proceedings under paragraph 2(1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.”.

(3) In sub-paragraph (2) for “court”, in each place, substitute “Upper Tribunal”.

## **Employment Act 2002**

**321.** Schedule 1 of the Employment Act 2002(a) is amended as follows.

**322.**—(1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (2) after “to tax” insert “except that references to the tribunal shall be taken to be references to the First-tier Tribunal”.

(3) In sub-paragraph (3)—

(a) for “General or Special Commissioners” substitute “First-tier Tribunal”;

(b) in sub-paragraphs (3)(a) and (b) omit “to them”; and

(c) in sub-paragraphs (3)(c) and (d)—

(i) omit “to them”;

(ii) for “they consider” substitute “the tribunal considers”.

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(a) 2002 c. 22.

(4) For sub-paragraph (4) substitute—

“(4) 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 the penalty which had been determined under sub-paragraph (3), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(4A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (4) as it applies to the right of appeal under section 11(2) of that Act.

(4B) On an appeal under this paragraph the Upper Tribunal has the like jurisdiction as is conferred on the First-tier Tribunal by virtue of this paragraph.”.

**323.**—(1) Paragraph 4 is amended as follows.

(2) In the heading for “Commissioners” substitute “First-tier Tribunal”.

(3) For sub-paragraph (2) substitute—

“(2) The person liable to the penalty shall be a party to the proceedings.”.

(4) For sub-paragraph (4) substitute—

“(4) 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 determination of a penalty in proceedings under sub-paragraph (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(4A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (4) as it applies to the right of appeal under section 11(2) of that Act.”.

(5) In sub-paragraph (5) for “court” in each place substitute “Upper Tribunal”.

**324.** In paragraph 7 for “Commissioners” substitute “tribunal”.

**325.** In paragraph 9 omit the definition of ““General Commissioners” and “Special Commissioners””.

## **Finance Act 2002**

**326.** The Finance Act 2002(a) is amended as follows.

**327.**—(1) Schedule 18 (relief for community amateur sports clubs) is amended as follows.

(2) In paragraph 13—

(a) in sub-paragraph (1) omit “to the General Commissioners”;

(b) omit sub-paragraph (4); and

(c) in sub-paragraphs (5) and (6)—

(i) for “Commissioners” substitute “tribunal”; and

(ii) for “if they do not dismiss” substitute “if not dismissing”.

**328.**—(1) Schedule 29 (gains and losses of a company from intangible fixed assets) is amended as follows.

(2) In paragraph 88(5)(b) for “Special Commissioners”, in both places, substitute “tribunal”.

(3) In paragraph 88(6) for “Special Commissioners” and for “Commissioners” substitute “tribunal”.

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(a) 2002 c. 23.

(b) Paragraph 88 was amended by regulation 3(2) of, and paragraphs 9 and 13 of Schedule 2 to, S.I. 2007/3186.

## **Justice (Northern Ireland) Act 2002**

**329.** The Justice (Northern Ireland) Act 2002(a) is amended as follows.

**330.** Omit section 9B(3)(b)(b).

**331.** In Schedule 1 (listed judicial offices) omit—

- (a) “Member of the panel of chairmen of VAT tribunals for Northern Ireland”; and
- (b) “General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)”.

**332.** In Schedule 6 (office-holders required to take judicial oath) omit—

- (a) “Member of the panel of chairmen of VAT tribunals for Northern Ireland”; and
- (b) “General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)”.

## **Proceeds of Crime Act 2002**

**333.** Omit section 320 of the Proceeds of Crime Act 2002(c).

## **Income Tax (Earnings and Pensions) Act 2003**

**334.** The Income Tax (Earnings and Pensions) Act 2003(d) is amended as follows.

**335.** Insofar as section 43 (appeal against Commissioners’ decision on domicile or ordinary residence)(e) continues to apply in relation to tax years preceding the tax year 2008-09 it is to have effect as if—

- (a) in the heading “tribunal” were substituted for “Commissioners”; and
- (b) in subsection (1) “to the Special Commissioners” were omitted.

**336.**—(1) Section 111 (disputes as to annual value) is amended as follows.

(2) Omit subsection (2).

(3) For subsection (3) substitute—

“(3) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

**337.** In section 345(2) (decisions of an officer of Revenue and Customs under section 344) omit “to the Special Commissioners”.

**338.** In section 684(5) (PAYE regulations) for “General or Special Commissioners” substitute “tribunal”.

**339.** In section 715(3)(b) (approval of schemes: regulation by Treasury) omit “to the Special Commissioners”.

**340.**—(1) Part 2 of Schedule 1 (index of expressions defined in this Act or ICTA) is amended as follows.

- (2) Omit the entry for “General Commissioners”.
- (3) Omit the entry for “Special Commissioners”.

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(a) 2002 c. 26. The entries relating to the General Commissioner and VAT tribunals in Schedules 1 and 6 were amended by paragraphs 122(5) and 126(5) of Schedule 5 to the Constitutional Reform Act 2005 (c. 4).  
(b) Section 9B was inserted by section 125 of the Constitutional Reform Act 2005.  
(c) 2002 c. 29.  
(d) 2003 c. 1.  
(e) Section 43 was repealed by section 25 of, and paragraphs 2 and 23 of Schedule 7 to, the Finance Act 2008 (c. 9).

(4) Following the entry for “transport voucher” insert—  
“tribunal section 989 of ITA 2007”.

**341.**—(1) Paragraph 82 of Schedule 2 (approved share incentive plans)(a) is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

(3) In sub-paragraph (3)—

(a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and

(b) for “Commissioners” substitute “tribunal”.

**342.** In paragraph 85(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

**343.**—(1) Paragraph 100 (the index of defined expressions) is amended as follows.

(2) Omit the entry for “Special Commissioners”.

(3) Following the entry for “tax ” insert—

“tribunal section 989 of ITA 2007”.

**344.** Schedule 3 (approved SAYE option schemes) is amended as follows.

**345.**—(1) Paragraph 41 (appeal against refusal of approval)(b) is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

(3) In sub-paragraph (3)—

(a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and

(b) for “Commissioners” substitute “tribunal”.

**346.** In paragraph 44(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

**347.**—(1) Paragraph 49 (the index of defined expressions) is amended as follows.

(2) Omit the entry for “Special Commissioners”.

(3) Following the entry for “tax ” insert—

“tribunal section 989 of ITA 2007”.

**348.** Schedule 4 (approved CSOP schemes) is amended as follows.

**349.**—(1) Paragraph 29 (appeal against refusal of approval) is amended as follows.

(2) In sub-paragraph (1) omit “to the Special Commissioners”.

(3) in sub-paragraph (3)—

(a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and

(b) for “Commissioners” substitute “tribunal”.

**350.** In paragraph 32(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

**351.**—(1) Paragraph 37 (index of defined expressions) is amended as follows.

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(a) Paragraphs 82 and 85 were amended by section 50 of, and paragraphs 103(1)(b) and 121(b) and (c) of Schedule 4 to, the Commissioners of Revenue and Customs Act 2005 (c. 11).  
(b) Paragraph 41 of Schedule 3 was amended by section 50 of, and paragraphs 103(2)(d) and 122(b) of Schedule 4 to, the Commissioners of Revenue and Customs Act 2005.

(2) Omit the entry for “Special Commissioners”.

(3) Following the entry for “shares” insert—

“tribunal                                      section 989 of ITA 2007”.

**352.** Schedule 5 (enterprise management incentives) is amended as follows.

**353.**—(1) Paragraph 48 (completion of enquiry: application for closure notice to be given)(a) is amended as follows.

(2) In sub-paragraph (1) after “made” insert “to the tribunal”.

(3) Omit sub-paragraph (3).

(4) For sub-paragraph (4) substitute—

“(4) Any such application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).”.

(5) In sub-paragraph (5)—

(a) for “Those Commissioners” substitute “The tribunal”; and

(b) omit “they are”.

**354.** Omit paragraph 50(4).

**355.**—(1) Paragraph 56 (determination of market value of shares) is amended as follows.

(2) In sub-paragraph (4) for “the company may give an officer of Revenue and Customs a notice requiring the question of the market value of the shares to be referred to the Commissioners” substitute “the company may apply to the tribunal for the question of the market value of the shares to be determined”.

(3) Omit sub-paragraph (5).

(4) For sub-paragraph (6) substitute—

“(6) Any such application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).”.

**356.** Omit paragraph 57(3).

**357.**—(1) Paragraph 59 (index of defined expressions) is amended as follows.

(2) Omit the entry for “General Commissioners”.

(3) Omit the entry for “Special Commissioners”.

(4) Following the entry for “trade” insert—

“tribunal                                      section 989 of ITA 2007”.

**358.** Omit paragraphs 129 and 142 of Schedule 6.

### **Finance Act 2003**

**359.** The Finance Act 2003(b) is amended as follows.

**360.**—(1) Section 24(3) (introductory) is amended as follows.

(2) In the definition of “appeal tribunal” for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

(3) After the definition of “demand notice” insert—

““HMRC” means “Her Majesty’s Revenue and Customs.”.

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(a) Paragraph 48 of Schedule 5 was amended by section 50 of, and paragraphs 103(1)(z), 102(2)(k), 103(3)(h) and 124(b) of Schedule 4 to, the Commissioners of Revenue and Customs Act 2005.  
(b) 2003 c. 14.

- 361.** In section 30(2)(a) (demands for penalties) for “36” substitute “33”.
- 362.** For the cross-heading before section 33 substitute “*Appeals and reviews*”.
- 363.**—(1) Section 33 (right to review of certain decisions) is amended as follows.
- (2) For the heading substitute “Right to appeal against certain decisions”.
- (3) In subsection (1)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
  - (b) for “give a notice to the Commissioners requiring them to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (4) In subsection (2)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
  - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (5) In subsection (3) for “the Commissioners” substitute “HMRC”.
- (6) In subsection (4)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”;
  - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”; and
  - (c) in paragraph (b) for “Commissioners” substitute “HMRC”.
- (7) In subsection (5)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
  - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (8) For subsection (6) substitute—
- “(6) The powers of an appeal tribunal on an appeal under this section include—
- (a) power to quash or vary a decision; and
  - (b) power to substitute the tribunal’s own decision for any decision so quashed.
- (7) On an appeal under this section—
- (a) the burden of proof as to the matters mentioned in section 25(1) or 26(1) lies on HMRC; but
  - (b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.”.

**364.** After section 33 insert—

**“33A Offer of review**

- (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 33 in respect of the decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This section does not apply to the notification of the conclusions of a review.

**33B Review by HMRC**

- (1) HMRC must review a decision if—
  - (a) they have offered a review of the decision under section 33A, and
  - (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 33F.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

### **33C Extensions of time**

(1) If under section 33A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) In this section “relevant period” means—

- (a) the period of 30 days referred to in section 33B(1)(b), or
- (b) if notice has been given under subsection (1) that period as extended (or as most recently extended) in accordance with subsection (2).

### **33D Review out of time**

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 33A, and
- (b) P does not accept the offer within the time allowed under section 33B(1)(b) or 33C(2).

(2) HMRC must review the decision under section 33B if—

- (a) after the time allowed, P notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

### **33E Nature of review etc**

(1) This section applies if HMRC are required to undertake a review under section 33B or 33D.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P may agree.

(7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 33A), or
- (b) the date on which HMRC decided to undertake the review (in a case falling within section 33D).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, HMRC must notify P of the conclusions which the review is treated as having reached.

### **33F Bringing of appeals**

(1) An appeal under section 33 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of section 33C).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 33C—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review in accordance with section 33D—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where section 33E(8) applies, an appeal may be made at any time from the end of the period specified in section 33E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if an appeal tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.”.

**365.** Omit sections 34 to 36 and the cross-heading before section 36.

**366.** For section 37 (appeal tribunals) substitute—

#### **“37. Appeal tribunals**

Section 85 of the Value Added Tax Act 1994 (settling appeals by agreement) has effect as if the reference to section 83 of that Act included a reference to section 33 above.”.

**367.** In section 82(4) (loss or destruction of, or damage to, return etc) for “General or Special Commissioners having jurisdiction in the case” substitute “tribunal”.



**368.** In section 90(3)(g) (application to defer payment) for “General or Special Commissioners” substitute “tribunal”.

**369.**—(1) Section 103 (joint purchasers) is amended as follows.

(2) In subsection (5)(c) for “appear and be heard on the application” substitute “to be parties to the application”.

(3) In subsection (7)—

(a) for paragraph (d) substitute—

“(d) if it is not settled, and is notified to the tribunal, any of them are entitled to be parties to the appeal, and”; and

(b) for paragraph (e) substitute—

“(e) the tribunal’s decision on the appeal binds all of them.”.

(4) After subsection (7) insert—

“(7A) In a case where subsection (7) applies and some (but not all) of the purchasers require HMRC to undertake a review under paragraph 36B or 36C of Schedule 10—

(a) notification of the review must be given by HMRC to each of the other purchasers whose identity is known to HMRC,

(b) any of the other purchasers may be a party to the review if they notify HMRC in writing,

(c) the notice of HMRC’s conclusions must be given to each of the other purchasers whose identity is known to HMRC,

(d) paragraph 36F of Schedule 10 (effect of conclusions of review) applies in relation to all of the purchasers, and

(e) any of the purchasers may notify the appeal to the tribunal under paragraph 36G.”.

**370.** Omit section 115.

**371.**—(1) Section 121 (minor definitions) is amended as follows.

(2) After the definition of “employee” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

(3) After the definition of “tax” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**372.** In section 122 (index of defined expressions) after the entry for “tax” insert “tribunal” in the first column and “section 121” in the second column.

**373.** Schedule 10 (stamp duty land tax: returns, enquiries, assessments and appeals) is amended as follows.

**374.**—(1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (3) for “General or Special Commissioners” substitute “tribunal”.

(3) In sub-paragraph (4) for “Commissioners” substitute “tribunal”.

**375.** In paragraph 10(2) for “Commissioners” substitute “tribunal”.

**376.** In paragraph 14(5)(b) for “Special Commissioners” substitute “tribunal”.

**377.**—(1) Paragraph 15 is amended as follows.

(2) In sub-paragraph (3) omit “heard and”.

(3) In sub-paragraph (4)—

(a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and

(b) omit “to them” in both places.

(4) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.

(5) For sub-paragraph (6) substitute—

“(6) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 the decision of the tribunal on an appeal under this paragraph is final.”.

**378.**—(1) Paragraph 19 is amended as follows.

(2) In the heading for “Special Commissioners” substitute “the tribunal”.

(3) In sub-paragraph (1) for “to the Special Commissioners for their determination” substitute “to the tribunal for determination”.

(4) In sub-paragraph (2)—

(a) omit paragraph (b); and

(b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.

(5) Omit sub-paragraph (3).

**379.**—(1) Paragraph 20 is amended as follows.

(2) In sub-paragraph (1) omit “by notice in accordance with this paragraph”.

(3) Omit sub-paragraph (2).

**380.** In paragraph 21(3)(a) for “Special Commissioners” substitute “tribunal”.

**381.** In paragraph 22(1) for “Special Commissioners” substitute “tribunal”.

**382.**—(1) Paragraph 24 is amended as follows.

(2) In sub-paragraph (1) for “General or Special Commissioners” substitute “tribunal”.

(3) For sub-paragraph (2) substitute—

“(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

(4) In sub-paragraph (3)—

(a) for “Commissioners” substitute “tribunal”; and

(b) omit “they are”.

**383.** For paragraph 33(4) substitute—

“(4) An appeal may be made against a decision on a claim for relief under this paragraph. ”.

**384.** In paragraph 34(6) for “, the Special Commissioners shall hear and” substitute “that is notified to the tribunal, the tribunal shall”.

**385.** For the heading of Part 7 substitute—

## “Reviews and Appeals”

**386.**—(1) Paragraph 35 is amended as follows.

(2) Omit sub-paragraph (2).

(3) In sub-paragraph (3)—

(a) at the beginning insert “If”;

(b) after “self-assessment” insert “is”; and

(c) for “shall not be heard and determined” substitute “none of the steps mentioned in paragraph 36A(2)(a) to (c) may be taken in relation to the appeal”.

**387.** Omit paragraph 36(6).

**388.** After paragraph 36 insert the following—

*“Appeal: HMRC review or determination by tribunal*

- 36A**—(1) This paragraph applies if notice of appeal has been given to HMRC.
- (2) In such a case—
- (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see paragraph 36B),
  - (b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 36C), or
  - (c) the appellant may notify the appeal to the tribunal (see paragraph 36D).
- (3) See paragraphs 36G and 36H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.
- (4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 37(1) (settling of appeals by agreement).

*Appellant requires review by HMRC*

- 36B**—(1) Sub-paragraphs (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (2) HMRC must, within the relevant period, notify the appellant of HMRC’s view of the matter in question.
- (3) HMRC must review the matter in question in accordance with paragraph 36E.
- (4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—
- (a) the appellant has already given a notification under this paragraph in relation to the matter in question,
  - (b) HMRC have given a notification under paragraph 36C in relation to the matter in question, or
  - (c) the appellant has notified the appeal to the tribunal under paragraph 36D.
- (5) In this paragraph “relevant period” means—
- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
  - (b) such longer period as is reasonable.

*HMRC offer review*

- 36C**—(1) Sub-paragraphs (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC’s view of the matter in question.
- (3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 36E.
- (4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 37(1) for the settlement of that matter.
- (5) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (4) applies.
- (6) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36H.
- (7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this paragraph in relation to the matter in question,
- (b) the appellant has given a notification under paragraph 36B in relation to the matter in question, or
- (c) the appellant has notified the appeal to the tribunal under paragraph 36D.

(8) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

*Notifying appeal to the tribunal*

**36D**—(1) This paragraph applies in a case where paragraph 36A applies.

(2) The appellant may notify the appeal to the tribunal.

(3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

(4) Sub-paragraphs (2) and (3) do not apply in a case where—

- (a) HMRC have given a notification of their view of the matter in question under paragraph 36B, or
- (b) HMRC have given a notification under paragraph 36C in relation to the matter in question.

(5) In a case falling within sub-paragraph (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by paragraph 36G or 36H.

*Nature of review etc*

**36E**—(1) This paragraph applies if HMRC are required by paragraph 36B or 36C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in deciding the matter in question, and
- (b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC’s view of the matter in question is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—

- (a) the period of 45 days beginning with the relevant day, or
- (b) such other period as may be agreed.

(7) In sub-paragraph (6) “relevant day” means—

- (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,
- (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC’s view of the matter in question (see paragraphs 36B(2) and 36C(2)) is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

*Effect of conclusions of review*

**36F**—(1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 36E).

(2) The conclusions are to be treated as if they were an agreement in writing under paragraph 37(1) for the settlement of the matter in question.

(3) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (2) applies.

(4) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36G.

*Notifying appeal to tribunal after review concluded*

**36G**—(1) This paragraph applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 36E, or
- (b) the period specified in paragraph 36E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The appellant may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this paragraph “post-review period” means—

- (a) in a case falling with sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(6), or
- (b) in a case falling within sub-paragraph (1)(b), the period that—
  - (i) begins with the day following the last day of the period specified in paragraph 36E(6), and
  - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(9).

*Notifying appeal to tribunal after review offered but not accepted*

**36H**—(1) This paragraph applies if—

- (a) HMRC have offered to review the matter in question (see paragraph 36C), and
- (b) the appellant has not accepted the offer.

(2) The appellant may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this paragraph “acceptance period” has the same meaning as in paragraph 36C.

*Other interpretation*

**36I**—(1) In paragraphs 36A to 36H—

- (a) “matter in question” means the matter to which an appeal relates;
- (b) a reference to a notification is a reference to a notification in writing.

(2) In paragraphs 36A to 36H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

- (a) notification of HMRC’s view under paragraph 36B(2),
- (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 36C,
- (c) notification of the conclusions of a review under paragraph 36E(6), and
- (d) notification of the conclusions of a review under paragraph 36E(9).

(3) But if a notification falling within any of the sub-paragraphs of paragraph (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”.

**389.** In paragraph 37(1) for “Commissioners” substitute “tribunal”.

**390.**—(1) Paragraph 38 is amended as follows.

- (2) In sub-paragraph (1) omit “to the Commissioners”.
- (3) In sub-paragraph (2) for “Commissioners” substitute “the tribunal”.

**391.**—(1) Paragraph 39 is amended as follows.

- (2) In the heading for “Commissioners” substitute “the tribunal”.
- (3) For sub-paragraph (1) substitute—

“(1) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.

An application under sub-paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.”.

- (4) Omit sub-paragraph (2).

(5) In sub-paragraph (4) for “by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further” substitute “if the parties cannot agree on a revised determination, apply, at any time before the determination of the appeal, to the tribunal for a revised”.

- (6) For sub-paragraph (5) substitute—

“(5) An application under this paragraph is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

(7) In sub-paragraph (6) omit “to the Commissioners, having regard to the representations made and any evidence adduced”.

- (8) In sub-paragraph (8) for “the Inland Revenue” substitute “HMRC”.

**392.** In paragraph 40(1) for “Commissioners” substitute “tribunal”.

**393.** After paragraph 40 add—

*“Tribunal determinations*

**41.** The determination of the tribunal in relation to any proceedings under the enactments relating to stamp duty land tax shall be final and conclusive except as otherwise provided in—

- (a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007,
- (b) the Taxes Management Act 1970 applied as modified, or
- (c) the enactments relating to stamp duty land tax.

*Assessments and self assessments*

**42—(1)** In this paragraph any reference to an appeal means an appeal under paragraphs 33(4) or 35(1).

(2) If, on an appeal notified to the tribunal, the tribunal decides—

- (a) that the appellant is overcharged by a self-assessment; or
- (b) that the appellant is overcharged by an assessment other than a self-assessment,

the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.

(3) If, on appeal it appears to the tribunal—

- (a) that the appellant is undercharged to stamp duty land tax by a self-assessment; or
- (b) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment shall be increased accordingly.

(4) Where, on an appeal against an assessment other than a self-assessment which—

- (a) assesses an amount which is chargeable to stamp duty land tax, and
- (b) charges stamp duty land tax on the amount assessed,

it appears to the tribunal as mentioned in sub-paragraphs (2) or (3), it may, unless the circumstances of the case otherwise require, reduce or increase only the amount assessed; and where an appeal is so determined the stamp duty land tax charged by that assessment shall be taken to have been reduced or increased accordingly.

*Payment of stamp duty land tax where there is a further appeal*

**43—(1)** Where a party to an appeal to the tribunal under paragraph 35 makes a further appeal, notwithstanding that the further appeal is pending, stamp duty land tax shall nevertheless be payable or repayable in accordance with the determination of the tribunal or court as the case may be.

(2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—

- (a) if too much stamp duty land tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and
- (b) if too little stamp duty land tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.

*Late notice of appeal*

**44—(1)** This paragraph applies in a case where—

- (a) notice of appeal may be given to HMRC under this Schedule or any other provision of Part 4 of this Act, but
- (b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—

- (a) HMRC agree, or
- (b) where HMRC do not agree, the tribunal gives permission.

(3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.

(4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

(5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.

(6) Condition C is that HMRC are satisfied that request under sub-paragraph (4) was made without unreasonable delay after the reasonable excuse ceased.

(7) If a request of the kind referred to in sub-paragraph (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.

(8) In this paragraph “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this paragraph).

*Questions to be determined by the relevant Lands Tribunal*

**45**—(1) Where the question in any dispute on any appeal under paragraphs 34(6) or 35(1) is a question of the market value of the subject matter of the land transaction that question shall be determined on a reference by the relevant Lands Tribunal.

(2) In this regulation “the relevant Lands Tribunal” means—

- (a) where the land is in England and Wales, the Lands Tribunal;
- (b) where the land is in Scotland, the Lands Tribunal for Scotland;
- (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

*Meaning of HMRC*

**46** In this Schedule “HMRC” means Her Majesty’s Revenue and Customs.”.

**394.** In paragraph 5(2) of Schedule 11 (stamp duty land tax: record keeping etc) for “Commissioners” substitute “tribunal”.

**395.** Schedule 11A (stamp duty land tax: claims not included in returns)(a) is amended as follows.

**396.** In paragraph 3(4) for “Commissioners” substitute “tribunal”.

**397.**—(1) Paragraph 9 is amended as follows.

(2) In sub-paragraph (3) omit “heard and”.

(3) In sub-paragraph (4)—

- (a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and
- (b) omit the words “to them” in both places.

(4) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.

(5) For sub-paragraph (6) substitute—

“(6) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal on an appeal under this paragraph is final.”.

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(a) Schedule 11A was inserted by section 299(1) and (3) of, and Schedule 40 to, the Finance Act 2004 (c. 12).



- 398.**—(1) Paragraph 12 is amended as follows.
- (2) In sub-paragraph (1) for “General or Special Commissioners” substitute “tribunal”.
- (3) For sub-paragraph (2) substitute—
- “(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.
- (4) In sub-paragraph (3)—
- (a) for “Commissioners hearing the application” substitute “tribunal”; and
- (b) omit the words “they are”.
- 399.**—(1) Paragraph 14 is amended as follows.
- (2) Omit sub-paragraph (4).
- (3) In sub-paragraph (5)—
- (a) for “Paragraph 37” substitute “Paragraphs 36A to 37 and 44”; and
- (b) for “it applies” substitute “they apply”.
- (4) In sub-paragraphs (6) and (7) for “Commissioners” substitute “tribunal”.
- 400.** Omit paragraph 15.
- 401.** Schedule 13 (stamp duty land tax: information powers) is amended as follows.
- 402.**—(1) Paragraph 2 is amended as follows.
- (2) In the heading for “General or Special Commissioner” substitute “the tribunal”.
- (3) In sub-paragraph (1) for “a General or Special Commissioner” substitute “the tribunal”.
- (4) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.
- (5) Omit sub-paragraph (3) and the words after sub-paragraph (3).
- 403.**—(1) Paragraph 4 is amended as follows.
- (2) In sub-paragraph (2)(b) for “General or Special Commissioner” substitute “tribunal”.
- (3) In sub-paragraph (3)—
- (a) for “A Commissioner” substitute “The tribunal”; and
- (b) omit “he is”.
- 404.**—(1) Paragraph 7 is amended as follows.
- (2) In the heading for “General or Special Commissioner” substitute “the tribunal”.
- (3) In sub-paragraph (1) for “a General or Special Commissioner” substitute “the tribunal”.
- (4) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.
- (5) Omit sub-paragraph (3).
- 405.**—(1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (2) for “a General or Special Commissioner” substitute “the tribunal”.
- (3) In sub-paragraph (3) for “Commissioner” substitute “the tribunal”.
- 406.**—(1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (2)(b) for “General or Special Commissioner” substitute “tribunal”.
- (3) In sub-paragraph (3)—
- (a) for “A Commissioner” substitute “The tribunal”,
- (b) omit “he is”.
- 407.**—(1) Paragraph 11 is amended as follows.

(2) In sub-paragraph (1) for “a Special Commissioner gives his consent” substitute “the tribunal gives consent”.

(3) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.

(4) In sub-paragraph (5) for “Special Commissioners” substitute “tribunal”.

**408.**—(1) Paragraph 24 is amended as follows.

(2) In sub-paragraph (3)(a) for “General or Special Commissioner” substitute “tribunal”.

(3) In sub-paragraph (3)(b) for “a General or Special Commissioner” substitute “the tribunal”.

(4) In sub-paragraph (4) for “Commissioner” substitute “tribunal”.

**409.** In paragraph 53(3)(a) for “a General or Special Commissioner” substitute “the tribunal”.

**410.** Schedule 14 (stamp duty land tax: determination of penalties and related appeals) is amended as follows.

**411.**—(1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (1) for “lies to the General or Special Commissioners” substitute “may be made”.

(3) For sub-paragraph (3) substitute—

“(3) The notice of appeal must specify the grounds of appeal.”.

(4) In sub-paragraph (4)—

(a) for “the Commissioners” substitute “that is notified to the First-tier Tribunal, the tribunal”;

(b) omit “to them” in each place; and

(c) for “as they consider appropriate” substitute “as the First-tier Tribunal considers appropriate”.

(5) After sub-paragraph (4) insert—

“(5) The provisions of paragraphs 36A to 36I of Schedule 10 apply to appeals under this paragraph.”.

**412.**—(1) Paragraph 6 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) 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 the penalty which has been determined under paragraph (5), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.”.

(3) In sub-paragraph (2)—

(a) for “court” substitute “Upper Tribunal”; and

(b) for “Special Commissioners” substitute “First-tier Tribunal”.

(4) (a) Omit sub-paragraph (3).

**413.** Omit Schedule 17.

#### **Child Trust Funds Act 2004**

**414.** The Child Trust Funds Act 2004(a) is amended as follows.

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(a) 2004 c. 6.

**415.**—(1) Section 21 (decisions, appeals, mitigation and recovery) is amended as follows.

(2) In subsection (9)—

(a) for “General Commissioners or Special Commissioners” substitute “appropriate tribunal”; and

(b) in paragraphs (c) and (d) for “they consider” substitute “the tribunal considers”.

(3) For subsection (10) substitute—

“(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).”.

**416.**—(1) Section 23 (exercise of rights of appeal) is amended as follows.

(2) For subsection (3) substitute—

“(3) An appeal under section 22 is to the appropriate tribunal.”.

(3) Omit subsections (4) and (5).

(4) For subsection (6) substitute—

“(6) Regulations may apply (with or without modifications) any provision contained in—

(a) the Social Security Act 1998 (c. 14) (social security appeals: Great Britain),

(b) the Social Security (Northern Ireland) Order 1998 (SI 1998/1506 (NI 10))(social security appeals: Northern Ireland), or

(c) section 54 of the Taxes Management Act 1970 (settling of appeals by agreement),

in relation to appeals which by virtue of this section are to the appropriate tribunal or in relation to appeals under this Act which lie to a Social Security Commissioner.”.

(5) Omit subsection (7).

**417.** Omit section 24 (temporary modifications).

**418.**—(1) Section 29 (interpretation) is amended as follows.

(2) After the definition of “account provider” insert—

““appropriate tribunal” means

(a) the First-tier Tribunal, or

(b) in Northern Ireland, an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998,”.

(3) Omit the definitions of “the General Commissioners” and “the Special Commissioners”.

(4) Before the definition of “responsible person” insert—

““Northern Ireland Social Security Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992 (c. 8) or a tribunal of three or more Commissioners constituted under article 16(7) of the Social Security (Northern Ireland) Order 1998,”.

## Finance Act 2004

**419.** The Finance Act 2004(a) is amended as follows.

**420.** In section 59(4)(b) (contractors) for “Commissioners” substitute “tribunal”.

**421.**—(1) Section 67 (registration for gross payment: appeals) is amended as follows.

(2) In subsection (1) omit “to the General Commissioners or, if the person so elects in the notice, to the Special Commissioners”.

(3) In subsection (4)—

- (a) for “Commissioners” substitute “tribunal”; and
- (b) after “appeal” insert “that is notified to the tribunal”.

(4) In subsection (5)—

- (a) in paragraph (b) for “Commissioners” substitute “tribunal”; and
- (b) in paragraph (c) for “appropriate court” substitute “Upper Tribunal or a court”.

(5) Omit subsection (6).

**422.**—(1) Section 114 (refusal to issue certificate and appeal against refusal) is amended as follows.

(2) In subsection (4) omit “to the Special Commissioners”.

(3) In subsection (7) for “the appeal, the Special Commissioners may” substitute “an appeal that is notified to the tribunal, the tribunal may”.

**423.**—(1) Section 156 (appeal against a decision not to register) is amended as follows.

(2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal under this section that is notified to the tribunal, the tribunal”.

(4) In subsection (7)—

- (a) for “they decide” substitute “the tribunal decides”; and
- (b) for “they must” substitute “the tribunal must”.

(5) In subsection (8)—

- (a) for “they decide” substitute “the tribunal decides”;
- (b) for “Commissioners determine” substitute “tribunal determines”; and
- (c) omit “or any determination on, or in consequence of, a case stated”.

**424.**—(1) Section 159 (appeal against decision to de-register) is amended as follows.

(2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsection (7)—

- (a) for “they decide” substitute “the tribunal decides”; and
- (b) for “they must” substitute “the tribunal must”.

(5) In subsection (8)—

- (a) for “they decide” substitute “the tribunal decides”; and
- (b) omit “or any determination on, or in consequence of, a case stated”.

**425.**—(1) Section 170 (appeal against decision to exclude recognised overseas pension scheme) is amended as follows.

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(a) 2004 c. 12.

(2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsection (7)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) for “they must” substitute “the tribunal must”.

(5) In subsection (8)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) omit “or any determination on, or in consequence of, a case stated”.

**426.**—(1) Section 253 (appeal against notices) is amended as follows.

(2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsections (7) and (8)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) for “they must” substitute “the tribunal must”.

(5) For subsection (10) substitute—

“(10) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal is final and conclusive.”.

**427.**—(1) Section 269 (appeal against decision on discharge of liability) is amended as follows.

(2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under subsection (1)(a) is brought” substitute “On an appeal under subsection (1)(a) that is notified to the tribunal, the tribunal”.

(4) In subsections (7) and (8)—

(a) for “they consider” substitute “the tribunal considers”; and

(b) for “they must” substitute “the tribunal must”.

(5) In subsection (9) for “The Commissioners before whom an appeal under subsection (1)(b) is brought” substitute “On an appeal under subsection (1)(b) that is notified to the tribunal, the tribunal”.

(6) In subsections (10) and (11)—

(a) for “they consider” substitute “the tribunal considers”; and

(b) for “they must” substitute “the tribunal must”.

**428.**—(1) Section 271 (liability of scheme administrator) is amended as follows.

(2) Omit subsections (8) and (10).

(3) In subsection (11) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsection (12)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) for “they must” substitute “the tribunal must”.

(5) In subsection (13)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) omit “or any determination on, or in consequence of, a case stated”.

**429.** In section 306A(1) and (3) (doubt as to notifiability)(a) for “Special Commissioners” substitute “tribunal”.

**430.** In section 308A(2) and (3) (supplemental information) for “Special Commissioners” substitute “tribunal”.

**431.** In section 313B(1) (reasons for non-disclosure: supporting information) for “Special Commissioners” substitute “tribunal”.

**432.** In section 314A(1) and (3) (order to disclose) for “Special Commissioners” substitute “tribunal”.

**433.** Omit section 317A.

**434.**—(1) Section 318(1) (interpretation of Part 7)(b) is amended as follows.

(2) Omit the definition of “the Special Commissioners”.

(3) After the definition of “tax” insert—

““tribunal” means the First-tier tribunal, or where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**435.**—(1) Paragraph 6 of Schedule 33 (overseas pension schemes: migrant member relief) is amended as follows.

(2) Omit sub-paragraphs (3) and (4).

(3) In sub-paragraph (6) for “The Commissioners before whom an appeal under this paragraph is brought” substitute “If an appeal under this paragraph is notified to the tribunal, the tribunal”.

(4) In sub-paragraph (7) for “they decide” substitute “the tribunal decides” and for “they must” substitute “the tribunal must”.

(5) In sub-paragraph (8)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) omit “or any determination on, or in consequence of, a case stated.”.

### **Constitutional Reform Act 2005**

**436.** In Part 3 of Schedule 14 to the Constitutional Reform Act 2005 (appointments by Lord Chancellor: offices to which paragraph 2(2)(d) of Schedule 12 applies)(c) omit the entries relating to—

(a) Special Commissioner and the Presiding Special Commissioner (under section 4(1) of the Taxes Management Act 1970);

(b) Deputy Special Commissioner (under section 4A(1) of the Taxes Management Act 1970);

(c) Chairman and member of a section 706 tribunal (under section 706 of the Income and Corporation Taxes Act 1988);

(d) President of VAT tribunals (under paragraph 2(2) of Schedule 12 to the Value Added Tax Act 1994);

(e) Member of a panel of chairmen (under paragraph 7(3)(a) of Schedule 12 to the Value Added Tax Act 1994);

(f) Chairman and member of a section 704 tribunal (under section 704 of the Income Tax Act 2007); and

(g) Member of panel of assessors to assist Special Commissioners (under section 320(3)(b) of the Proceeds of Crime Act 2002).

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(a) Sections 306A, 308A, 313B, 314A and 317A were inserted by section 108(2) and (4) to (7) of the Finance Act 2007 (c. 11)

(b) The definition of “the Special Commissioners” was inserted by section 108(1), (8) and (10) of the Finance Act 2007.

(c) 2005 c. 4.

## **Income Tax (Trading and Other Income) Act 2005**

**437.** The Income Tax (Trading and Other Income) Act 2005(a) is amended as follows.

**438.**—(1) In section 54(2) (penalties, interest and VAT surcharges), the first column of the table is amended as follows.

(2) In the entry relating to interest under section 74 of VATA 1994 after “74” insert “or 85A”.

(3) For the entry relating to interest under paragraph 21 of Schedule 7 to FA 1994 substitute “Interest under section 60(8) of FA 1994 or paragraph 21 of Schedule 7 to FA 1994”.

(4) For the entry relating to interest under paragraph 26 or 27 of Schedule 5 to FA 1996 substitute “Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996”.

(5) In the entry relating to interest under any of paragraphs 70, 81 to 85 and 109 of Schedule 6 to FA 2000 for “and 109” substitute “, 109 and 123(6)”.

(6) In the entry relating to interest under certain paragraphs of Schedules 5, 8 and 10 to FA 2001—

(a) after “under” insert “section 42(6) of, or”; and

(b) for “to FA 2001” substitute “to, FA 2001”.

**439.**—(1) Section 186 (determination of questions by Commissioners) is amended as follows.

(2) In the heading omit “by Commissioners”.

(3) In subsection (1) omit “by the General or Special Commissioners”.

(4) Omit subsections (2) to (4).

**440.**—(1) Section 218 (commercial reasons for change of accounting date) is amended as follows.

(2) In subsection (5)—

(a) after “appeal” insert “that is notified to the tribunal”;

(b) in paragraph (a)—

(i) for “Commissioners are” substitute “tribunal is”;

(ii) for “they” substitute “the tribunal”; and

(c) in paragraph (b)—

(i) for “they are” substitute “the tribunal is”;

(ii) for “they may” substitute “the tribunal may”.

**441.** In section 646(7) (adjustments between settlor and trustees etc) for “General Commissioners whose decision is final” substitute “tribunal and, notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal is final”.

**442.**—(1) In section 869 (penalties, interest and VAT surcharges: non-trades etc), the first column of the table in subsection (4) is amended as follows.

(2) In the entry relating to interest under section 74 of VATA 1994 after “74” insert “or 85A”.

(3) For the entry relating to interest under paragraph 21 of Schedule 7 to FA 1994 substitute “Interest under section 60(8) of FA 1994 or paragraph 21 to Schedule 7 to FA 1994”.

(4) For the entry relating to interest under paragraph 26 or 27 of Schedule 5 to FA 1996 substitute “Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996”.

(5) In the entry relating to interest under any of paragraphs 70, 81 to 85 and 109 of Schedule 6 to FA 2000 for “and 109” insert “, 109 and 123(6)”.

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(a) 2005 c. 5.

(6) In the entry relating to interest under certain paragraphs of Schedules 5, 8 and 10 to FA 2001—

- (a) after “under” insert “section 42(6) of, or”; and
- (b) for “to FA 2001” substitute “to, FA 2001”.

**443.** Omit paragraphs 373 to 375 and 383 of Schedule 1.

**444.** In paragraph 153 of Schedule 2 omit sub-paragraphs (3) and (4).

### **Finance Act 2005**

**445.** In section 40(4) of the Finance Act 2005 (power to make enquiries)(a) omit “to the General Commissioners”.

### **Finance Act 2006**

**446.** The Finance Act 2006(b) is amended as follows.

**447.**—(1) Section 117 (cancellation of tax advantage)(c) is amended as follows.

(2) In subsection (6) omit “to the Special Commissioners”.

(3) In subsection (8) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

**448.** In section 129(6) (termination by notice: Commissioners) omit “to the Special Commissioners”.

**449.**—(1) Section 133 (early exit) is amended as follows.

(2) In subsection (5) omit “to the Special Commissioners”.

(3) In subsection (6) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

### **Income Tax Act 2007**

**450.** The Income Tax Act 2007(d) is amended as follows.

**451.** In section 341(3)(a) (terms and conditions of accreditation) for “Special Commissioners” substitute “tribunal”.

**452.** Omit section 538(4).

**453.** In section 557(2) (substantial donor transactions: supplementary) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

**454.** For section 674(7) (meaning of “the settlement day”) substitute—

“(7) On any appeal that is notified to the tribunal, the jurisdiction of the tribunal includes jurisdiction to affirm or replace such a decision.”.

**455.**—(1) Section 692(2) (abnormal dividends: general) is amended as follows.

(2) In paragraph (b) after “Customs,” insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) the tribunal.”

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(a) 2005 c. 7.

(b) 2006 c. 25.

(c) Section 117(8) was inserted by paragraph 8 of Schedule 17 to the Finance Act 2007 (c. 11).

(d) 2007 c. 3.



**456.** In section 697(2) (opposed notifications: determinations by tribunal) omit “appointed under section 704”.

**457.** In section 698(1)(b) (counteraction notices) for “to which such a declaration is sent” substitute “having been sent such a declaration”.

**458.** Omit section 704 (and the cross-heading “The tribunal” before it).

**459.**—(1) Section 705 (appeals against counteraction notices) is amended as follows.

(2) In subsection (1) omit “to the Special Commissioners”.

(3) In subsection (3) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

(4) In subsection (4) omit “(or a request for its rehearing under section 706)”.

**460.** Omit sections 706 to 711.

**461.**—(1) Section 751 (Special Commissioners’ jurisdiction on appeals) is amended as follows.

(2) In the heading for “Special Commissioners” substitute “The tribunal’s”.

(3) For “The jurisdiction of the Special Commissioners on any appeal” substitute “On any appeal that is notified to the tribunal, the jurisdiction of the tribunal”.

**462.** In section 989 (the definitions) after the definition of “trade” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal,”.

**463.** In Schedule 1 omit paragraphs 243, 250, 255, 256, 267 and 351.

## **Finance Act 2007**

**464.** The Finance Act 2007(a) is amended as follows.

**465.** Omit section 108(10)(a).

**466.** For paragraph 16 of Schedule 24 (penalties) substitute—

“**16**—(1) An appeal under this Part of this Schedule shall be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

(2) Sub-paragraph (1) does not apply in respect of a matter expressly provided for by this Act.”.

**467.**—(1) Paragraph 17 is amended as follows.

(2) In sub-paragraphs (1), (2) and (3) omit “appellate” in each place.

(3) In sub-paragraph (4)—

(a) in paragraph (a) omit “appellate”; and

(b) in paragraph (b)—

(i) omit “appellate” in the first place in which it occurs;

(ii) in sub-paragraph (i) omit “to the appellate tribunal”;

(iii) in sub-paragraph (ii) omit “appellate”.

(4) In sub-paragraph (5) omit “appellate” in each place.

(5) After sub-paragraph (5) insert—

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(a) 2007 c. 11.

“(5A) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 16(1)).”.

## **Finance Act 2008**

**468.** The Finance Act 2008(a) is amended as follows.

**469.** Omit section 119(12)(a)(i) and (ii).

**470.** Omit paragraph 161 of Schedule 7.

**471.**—(1) Schedule 36 (information and inspection powers) is amended as follows.

(2) In paragraphs 2(2), 5(3) and (4), 6(3), 12(5), 35(5), 37(6), 39(1)(b), 53(1)(b) and 54(1)(b) for “First-tier Tribunal”, in each place, substitute “tribunal”.

(3) In paragraph 3—

(a) in sub-paragraph (1)(b) for “First-tier Tribunal” substitute “tribunal”;

(b) in sub-paragraph (2) for “First-tier Tribunal” substitute “tribunal”;

(c) in sub-paragraph (3)—

(i) for “First-tier Tribunal”, in both places, substitute “tribunal”;

(ii) in paragraph (b) for “Tribunal” substitute “tribunal”;

(d) in sub-paragraph (4) for “First-tier Tribunal” substitute “tribunal”; and

(e) in sub-paragraph (5) for “First-tier Tribunal” substitute “tribunal”.

(4) In paragraph 4—

(a) in sub-paragraph (1) for “First-tier Tribunal” substitute “tribunal”; and

(b) in sub-paragraph (2)—

(i) for “First-tier Tribunal” substitute “tribunal”;

(ii) in paragraph (b) for “Tribunal” substitute “tribunal”.

(5) In paragraph 13—

(a) in the heading for “First-tier Tribunal” substitute “tribunal”;

(b) for “First-tier Tribunal”, in each place, substitute “tribunal”; and

(c) in sub-paragraph (2)(b) for “Tribunal” substitute “tribunal”.

(6) In paragraph 23—

(a) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”; and

(b) omit sub-paragraph (4)(b) and the “and” before it.

(7) In paragraph 29—

(a) in sub-paragraph (1) omit “to the First-tier Tribunal”; and

(b) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”.

(8) In paragraph 30—

(a) in sub-paragraph (1) omit “to the First-tier Tribunal”; and

(b) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”.

(9) In paragraph 31 omit “to the First-tier Tribunal”.

(10) In paragraph 32—

(a) in sub-paragraph (3) for “the First-tier Tribunal” substitute “that is notified to the tribunal, the tribunal”;

(b) in sub-paragraph (4)—

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(a) 2008 c. 9.

- (i) for “First-tier Tribunal” substitute “tribunal”;
- (ii) in paragraphs (a) and (b) for “Tribunal”, substitute “tribunal”;
- (iii) in paragraph (b) for “Tribunal’s” substitute “tribunal’s”; and
- (c) for sub-paragraph (5) substitute—

“(5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 a decision of the tribunal on an appeal under this Part of this Schedule is final.”.

(11) In paragraph 34(3) omit “to the First-tier Tribunal”.

(12) In paragraph 45(1) for “(on appeal) the First-tier Tribunal” substitute “(on an appeal notified to the tribunal) the tribunal”.

(13) In paragraph 47 omit “to the First-tier Tribunal”.

(14) In paragraph 48(3) and (4) for “, the First-tier Tribunal” substitute “that is notified to the tribunal, the tribunal”.

(15) In paragraph 58—

- (a) in the definition of “the Taxes Acts” at the end of sub-paragraph (c) omit “and”;
- (b) in the definition of “taxpayer” after “(as appropriate)” insert “, and”;
- (c) after the definition of “taxpayer” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**472.** Omit paragraph 14 of Schedule 40.

**473.**—(1) Schedule 41 is amended as follows.

(2) For paragraph 18 substitute—

“**18**—(1) An appeal shall be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or the Upper Tribunal).

(2) Sub-paragraph (1) does not apply in respect of a matter expressly provided for by this Act.”.

(3) In paragraph 19—

- (a) for “First-tier Tribunal”, in both places, substitute “tribunal”;
- (b) in sub-paragraph (3) for “Tribunal”, in each place, substitute “tribunal”; and
- (c) after sub-paragraph (4) insert—

“(5) In this paragraph, “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 18(1)).”.

(4) In paragraph 20(1) for “(on appeal) the First-tier Tribunal” substitute “(on an appeal notified to the tribunal) the tribunal”.

(5) In paragraph 21 for “(on appeal) the First-tier Tribunal”, in each place, substitute “(on an appeal notified to the tribunal) the tribunal”.

## **Health and Social Care Act 2008**

**474.** In section 32 of the Health and Social Care Act 2008(a) (appeals to Tribunal)—

- (a) in subsections (1) and (3) to (6) for “Tribunal”, in each place, substitute “First-tier Tribunal”; and
- (b) in subsection (7) omit the definition of “the Tribunal”.

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(a) 2008 c. 14.

## Consequential Amendments and Supplemental Provisions – Secondary Legislation

### Capital Gains Tax Regulations 1967

1. The Capital Gains Tax Regulations 1967(a) are amended as follows.
- 2.—(1) Regulation 2(1) (interpretation) is amended as follows.
  - (2) Omit the definition of “Commissioners”.
  - (3) Omit the definition of “references to the Income Tax Management Act 1964”.
- 3.—(1) Regulation 8 (joinder of third parties in appeals) is amended as follows.
  - (2) In paragraph (2) for “the inspector” substitute “an officer of Revenue and Customs”.
  - (3) In paragraph (3) for “inspector” substitute “officer”.
  - (4) For paragraphs (4) and (5) substitute—
    - “(4) If the application is received by the officer before the appeal has been notified to the tribunal, the officer shall, if satisfied that it is proper to join the applicant as a party in the appeal, join the applicant as a third party and give notice of the joinder to the appellant and any other party to the appeal.
    - (5) If the application is received by the officer after the appeal has been notified to the tribunal, or the officer is not satisfied that it is proper to join the applicant as a party in the appeal, the officer shall refer the application to the tribunal, which may at its discretion allow or refuse the application.”.
- 4.—(1) Regulation 9 (applications for determination of market value) is amended as follows.
  - (2) In paragraph (1) for “Commissioners” substitute “tribunal”.
  - (3) In paragraph (2) for “the inspector” substitute “an officer of Revenue and Customs”.
  - (4) Omit paragraph (3).
  - (5) In paragraph (4) for “inspector” substitute “officer”.
  - (6) Omit paragraph (5).
  - (7) In paragraph (6) for “(5)” substitute “(4)”.
- 5.—(1) Regulation 12 (agreements in writing of market value or apportionment) is amended as follows.
  - (2) In paragraph (1)—
    - (a) for “510 of the Income Tax Act 1952” substitute “54 of the Taxes Management Act 1970”; and
    - (b) for “Commissioners” substitute “the tribunal”.
  - (3) In paragraph (2) for “the inspector or any other” substitute “an”.
6. Omit regulation 17.

### Income Tax (Life Assurance Premium Relief) Regulations 1978

- 7.—(1) Regulation 10 of the Income Tax (Life Assurance Premium Relief) Regulations 1978(b) (deficiency claims: supplemental provision) is amended as follows.

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(a) S.I. 1967/149.  
 (b) S.I. 1978/1159.

(2) In paragraph (3) for “shall lie to the Special Commissioners from” substitute “may be made against”.

(3) In paragraph (5) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

### **Oil Taxation (Gas Banking Scheme) Regulations 1982**

**8.**—(1) Regulation 7 of the Oil Taxation (Gas Banking Scheme) Regulations 1982(**a**) (appeals) is amended as follows.

(2) In paragraph (1)—

(a) after “may” insert “appeal”; and

(b) omit “appeal to the Special Commissioners”.

(3) In paragraph (4) for “Special Commissioners” substitute “tribunal”.

(4) After paragraph (4) insert—

“(5) The provisions of paragraphs 14A to 14I of Schedule 2 to the Oil Taxation Act 1975(**b**) shall apply in relation to appeals under this regulation, subject to any necessary modifications.”.

### **Income Tax (Interest Relief) Regulations 1982**

**9.** The Income Tax (Interest Relief) Regulations 1982(**c**) are amended as follows

**10.**—(1) Regulation 14 (lender’s claims: supplementary provisions) is amended as follows.

(2) In paragraph (3) for “shall lie to the Special Commissioners from” substitute “may be made against”.

(3) In paragraph (5) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

**11.**—(1) Regulation 19 (borrower’s appeals: supplementary provisions) is amended as follows.

(2) Omit paragraph (1).

(3) In paragraph (3) for “the General or Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

### **Stamp Duty Reserve Tax Regulations 1986**

**12.** The Stamp Duty Reserve Tax Regulations 1986(**d**) are amended as follows.

**13.**—(1) Regulation 2 (interpretation) is amended as follows.

(2) Omit the definitions of “General Commissioners” and “Special Commissioners”.

(3) Before the definition of “investment business” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

(4) After the definition of “the Treasury Regulations” insert—

““tribunal” has the same meaning as in the Taxes Management Act 1970;”.

**14.**—(1) Regulation 8 (appeals against determination)(**e**) is amended as follows.

(2) For paragraph (2) substitute—

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(a) S.I. 1982/92.

(b) 1975 c. 22. Paragraphs 14A to 14I were inserted by paragraph 75 of Schedule 1 to this Order.

(c) S.I. 1982/1236.

(d) S.I. 1986/1711.

(e) Regulation 8 was amended by regulations 1 to 3 of S.I. 1993/3110 and by S.I. 1997/2430.

“(2) Sections 49D, 49G and 49H of the Taxes Management Act 1970(a) provide for notification of the appeal to the tribunal.”.

(3) In paragraph (3) after “may be” insert “notified”.

(4) In paragraph (4)—

- (a) after “may be” insert “notified”; and
- (b) after “appropriate” insert “Lands”.

(5) After paragraph (4) insert—

“(4ZA) The appeal may be notified under subsections (3) or (4) only if it could be notified to the tribunal under section 49D, 49G or 49H of the Taxes Management Act 1970.”

(6) For paragraph (4A) substitute—

“(4A) If and so far as the question in dispute on any appeal under this section which has been notified to the tribunal or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate Lands tribunal.”.

(7) In subsection (4B) after “appropriate” insert “Lands”.

(8) Omit paragraph (4C).

(9) In paragraph (4D)—

- (a) for “The Special Commissioners shall on an appeal to them” substitute “On an appeal that is notified to the tribunal, the tribunal shall”; and
- (b) omit “they are”.

15. For regulation 9 substitute—

**“Late notice of appeal**

9.—(1) This regulation applies in a case where—

- (a) notice of appeal may be given to HMRC under regulation 8, but
- (b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—

- (a) HMRC agree, or
- (b) where HMRC do not agree, the tribunal gives permission.

(3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.

(4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

(5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.

(6) Condition C is that HMRC are satisfied that the request under paragraph (4) was made without unreasonable delay after the reasonable excuse ceased.

(7) If a request of the kind referred to in paragraph (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.

(8) In this regulation “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this regulation).”.

16. Omit regulation 10.

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(a) 1970 c. 9. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

17.—(1) The Table in Part I of the Schedule (which applies the provisions of the Taxes Management Act 1970 specified in the first column of that Table, subject to any modification specified in the second column of that Table)(a) is amended as follows.

(2) Omit the entries in both columns for section 46A.

(3) After the entry for Section 26(2) insert—

- (a) “47C”, “49A(1) to (3)” and “49B” in the first column and “—” by each entry in the second column;
- (b) “49C” in the first column and “in subsection (4) from “is to be treated” to the end substitute “is to be treated as conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served.”” and “omit subsection (5)” in the second column;
- (c) “49D and 49E” in the first column and “—” by each entry in the second column;
- (d) “49F” in the first column and “in subsection (2) from “are to be treated” to the end substitute “are to be treated as conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served”” and “omit subsection (3)” in the second column; and
- (e) “49G, 49H, 49I” in the first column and “—” by each entry in the second column.

(4) Omit the entries in both columns for section 53, sections 56B to 56D and section 93(3).

(5) In the entry for section 100B omit the entry in the second column for subsection (3).

(6) For the entries for section 100C substitute “100C” in the first column and “—” in the second column.

(7) In the entry for section 101 in the second column omit “for the word “any” in the second place in which it occurs substitute “the Special””.

(8) In the entry in the second column for section 103(1) omit “; and before the word “Commissioners” insert “Special”.”.

(9) Omit the entries in both columns for section 103(4).

(10) In the entry for section 118(2) in the second column for “Before the word “Commissioners” insert “Special”; and after” substitute “After”.

18. Part II of the Schedule (which restates the provisions of the Taxes Management Act 1970 specified in Part I of the Schedule as modified where appropriate) is amended as follows.

19. For Part V (appeals and other proceedings) (as modified) substitute—

#### **“47C Meaning of tribunal**

In this Act “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

#### **49A Appeal: HMRC review or determination by tribunal**

- (1) This section applies if notice of appeal has been given to HMRC.
- (2) In such a case—
  - (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 49B),
  - (b) HMRC may notify the appellant of an offer to review the matter in question (see section 49C), or
  - (c) the appellant may notify the appeal to the tribunal (see section 49D).

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(a) The table has been amended. Relevant amendments were made by regulation 7(11) of S.I. 1993/3110.

(3) See sections 49G and 49H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

#### **49B Appellant requires review by HMRC**

(1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.

(2) HMRC must, within the relevant period, notify the appellant of HMRC's view of the matter in question.

(3) HMRC must review the matter in question in accordance with section 49E.

(4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—

- (a) the appellant has already given a notification under this section in relation to the matter in question,
- (b) HMRC have given a notification under section 49C in relation to the matter in question, or
- (c) the appellant has notified the appeal to the tribunal under section 49D.

(5) In this section “relevant period” means—

- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
- (b) such longer period as is reasonable.

#### **49C HMRC offer review**

(1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.

(2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC's view of the matter in question.

(3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 49E.

(4) If the appellant does not give HMRC such a notification within the acceptance period HMRC's view of the matter in question is to be treated as conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served.

(6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49H.

(7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this section in relation to the matter in question,
- (b) the appellant has given a notification under section 49B in relation to the matter in question, or
- (c) the appellant has notified the appeal to the tribunal under section 49D.

(8) In this section “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

#### **49D Notifying appeal to the tribunal**

(1) This section applies if notice of appeal has been given to HMRC.

(2) The appellant may notify the appeal to the tribunal.



(3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

(4) Subsections (2) and (3) do not apply in a case where—

(a) HMRC have given a notification of their view of the matter in question under section 49B, or

(b) HMRC have given a notification under section 49C in relation to the matter in question.

(5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 49G or 49H.

#### **49E Nature of review etc**

(1) This section applies if HMRC are required by section 49B or 49C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

(a) by HMRC in deciding the matter in question, and

(b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—

(a) upheld,

(b) varied, or

(c) cancelled.

(6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—

(a) the period of 45 days beginning with the relevant day, or

(b) such other period as may be agreed.

(7) In subsection (6) "relevant day" means—

(a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC's view of the matter in question,

(b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant's acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the conclusion of the review is deemed to be that HMRC's view of the matter in question (see sections 49B(2) and 49C(2)) is upheld.

(9) If subsection (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

#### **49F Effect of conclusions of review**

(1) This section applies if HMRC give notice of the conclusions of a review (see section 49E(6) and (9)).

(2) The conclusions are to be treated as conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served.

(4) Subsection (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49G.

#### **49G Notifying appeal to tribunal after review concluded**

(1) This section applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with section 49E, or
- (b) the period specified in section 49E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The appellant may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this section “post-review period” means—

- (a) in a case falling within subsection (1)(a) the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 49E(6), or
- (b) in a case falling within subsection (1)(b), the period that—
  - (i) begins with the day following the last day of the period specified in section 49E(6), and
  - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 49E(9).

#### **49H Notifying appeal to tribunal after review offered but not accepted**

(1) This section applies if—

- (a) HMRC have offered to review the matter in question (see section 49C), and
- (b) the appellant has not accepted the offer.

(2) The appellant may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this section “acceptance period” has the same meaning as in section 49C.

#### **49I Interpretation of sections 49A to 49H**

(1) In sections 49A to 49H—

- (a) “matter in question” means the matter to which an appeal relates;
- (b) a reference to a notification is a reference to a notification in writing.

(2) In sections 49A to 49H a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

- (a) notification of HMRC’s view under section 49B(2);
- (b) notification by HMRC of an offer of review (and of their view of the matter) under section 49C;
- (c) notification of the conclusions of a review under section 49E(6); and
- (d) notification of the deemed conclusions of a review under section 49E(9).

(3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”.

**20.**—(1) Part X (penalties etc) (as modified) is amended as follows.

(2) Omit section 93(3) (as modified).

(3) In section 100B (as modified)(a)—

(a) in subsection (2)—

(i) for “Special Commissioners” (in each place) substitute “First-tier Tribunal”;

(ii) omit “to them” (in each place); and

(iii) in paragraph (b)(iii) and (iv) for “as they consider” substitute “ as it considers”; and

(b) for subsection (3) substitute—

“(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 had been determined under subsection (2), but not against any decision which falls under section 11(5)(d) or (e) of that Act 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 that Act.

(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.”.

(4) In section 100C (as modified)—

(a) in the heading for “Commissioners” substitute “First-tier Tribunal”;

(b) in subsection (1) for “Special Commissioners” substitute “First-tier Tribunal”;

(c) for subsection (2) substitute—

“(2) the person liable to the penalty shall be a party to the proceedings.”;

(d) in subsection (3) for “Special Commissioners” substitute “First-tier Tribunal”;

(e) for subsection (4) substitute—

“(5) 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 had been determined under subsection (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

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

(f) in subsection (5) for “court”, in each place, substitute “Upper Tribunal”.

(5) In section 101 (as modified) for “the Special Commissioners on appeal” substitute “a tribunal on an appeal notified to it”.

(6) In section 103(1) and (4) (as modified) for “Special Commissioners” substitute “tribunal”.

**21.**—(1) Part XI (miscellaneous and supplemental) (as modified) is amended as follows.

(2) In section 118 (as modified)—

(a) in subsection (1) insert the following definitions at the appropriate places—

““HMRC” means “Her Majesty’s Revenue and Customs;”;

““the TCEA 2007” means the Tribunals, Courts and Enforcement Act 2007;”;

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(a) Sections 100 to 100D (as modified) were substituted for section 100 by regulations 1, 2, and 7 of S.I. 1993/3110.

- “tribunal” is to be read in accordance with section 47C;” and  
(b) in subsection (2) for “Special Commissioners” substitute “tribunal”.

### **Charitable Deductions (Approved Schemes) Regulations 1986**

**22.**—(1) Regulation 8 of the Charitable Deductions (Approved Schemes) Regulations 1986(a) (appeals) is amended as follows.

- (2) In paragraph (1)—  
(a) after “may” insert “appeal; and  
(b) omit from “, require the matter” to the end of the paragraph.
- (3) In paragraph (2)—  
(a) after “may” insert “appeal; and  
(b) omit from “, require the matter” to the end of the paragraph.

### **Venture Capital Trust Regulations 1995**

**23.** The Venture Capital Trust Regulations 1995(b) are amended as follows.

**24.** In regulation 4(4) (approval of a company) omit “to the Special Commissioners”.

**25.** In regulation 5(3) (refusal of approval of a company) omit “to the Special Commissioners”.

**26.** In regulation 6(3) (withdrawal of approval of a company) omit “to the Special Commissioners”.

**27.**—(1) Regulation 7 (appeals to the Special Commissioners) is amended as follows.

- (2) In the heading for “Special Commissioners” substitute “tribunal”.
- (3) In paragraph (1) omit “to the Special Commissioners”.
- (4) In paragraph (3)—  
(a) for “Special Commissioners shall on appeal” substitute “tribunal shall, on an appeal notified to it;” and  
(b) omit “they are”.
- (5) In paragraph (4) for “Special Commissioners” substitute “tribunal”.
- (6) In paragraph (5)—  
(a) for “Special Commissioners allow” substitute “tribunal allows”; and  
(b) for “they” substitute “the tribunal”.

### **Taxation of Income from Land (Non-residents) Regulations 1995**

**28.** The Taxation of Income from Land (Non-residents) Regulations 1995(c) are amended as follows.

**29.**—(1) Regulation 6 (multiple branches) is amended as follows.

- (2) Omit paragraph (9).
- (3) In paragraph (10)—  
(a) for “The General Commissioners or, as the case may be, the Special Commissioners shall on appeal to them” substitute “The tribunal shall, on an appeal notified to it;” and  
(b) omit “they are”.

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(a) S.I. 1986/2211.  
(b) S.I. 1995/1979.  
(c) S.I. 1995/2902.

**30.**—(1) Regulation 9(8) (calculation of payment of tax by agent) is amended as follows.

(2) Omit “shall lie to the Special Commissioners”.

(3) Omit “, and the appeal”.

**31.**—(1) Regulation 17 (application for gross payment of property income) is amended as follows.

(2) Omit paragraph (8).

(3) In paragraph (9)—

(a) for “The General Commissioners or the Special Commissioners, as the case may be, shall on appeal to them” substitute “The tribunal shall, on an appeal notified to it,”; and

(b) omit “they are”.

**32.**—(1) Regulation 19 (withdrawal of approval under regulation 17) is amended as follows.

(2) Omit paragraph (5).

(3) In paragraph (6)—

(a) for “The General Commissioners or the Special Commissioners, as the case may be, shall on appeal to them” substitute “The tribunal shall, on an appeal notified to it,”; and

(b) omit “they are”.

### **Customs Reviews and Appeals (Tariff and Origin) Regulations 1997**

**33.** The Customs Reviews and Appeals (Tariff and Origin) Regulations 1997(a) are amended as follows.

**34.**—(1) Regulation 3 is amended as follows.

(2) For “Section 14” substitute “Sections 13A to 16”.

(3) For “as it applies” substitute “as they apply”.

(4) For “14(1)” substitute “13A(2)”.

**35.** In regulation 4 after “Schedule 5 to the Act” insert “and as if any decision mentioned in (a) of that regulation were mentioned in section 13A(2)(a) to (h) of that Act”.

**36.**—(1) Regulation 5 is amended as follows.

(2) For “Section 14” substitute “Sections 13A to 16”.

(3) For “as it applies” substitute “as they apply”.

(4) For “14(1)” substitute “13A(2)”.

**37.** In regulation 6 after “Schedule 5 to the Act” insert “and as if any decision mentioned in (a) of that regulation were mentioned in section 13A(2)(a) to (h) of that Act”.

### **Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998**

**38.** The Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998(b) are amended as follows.

**39.**—(1) Regulation 4(1) (applicable rate of interest payable to the Commissioners etc)(c) is amended as follows.

(2) In sub-paragraph (a) for “paragraph 7 of Schedule 6 to” insert “section 60(8) of, and paragraphs 7 and 8(1) of Schedule 6 to,”.

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(a) S.I. 1997/534.

(b) S I. 1998/1461.

(c) Regulations 4 and 5 were substituted by regulation 4 of S.I. 2000/631 and amended by regulations 1 to 3 of S.I. 2001/3337 and regulations 2 to 4 of S.I. 2003/230.

- (3) In sub-paragraph (c) for “section 74” substitute “sections 74 and 85A(3)”.
- (4) In sub-paragraph (d) before “paragraph” insert “section 56(5) of and”.
- (5) In sub-paragraph (g) for “and 81(3)” substitute “, 81(3) and 123(6)”.
- (6) In sub-paragraph (h) for “and 30(3)(f)” substitute “, 30(3)(f) and 42(6)”.

**40.**—(1) Regulation 5(1) (applicable rate of interest payable by the Commissioners etc) is amended as follows.

- (2) After sub-paragraph (b) insert—
  - “(ba) section 60(6) of the Finance Act 1994,”.
- (3) In sub-paragraph (c) for “section 78” insert “sections 78 and 85A(2)”.
- (4) In sub-paragraph (d) before “paragraph” insert “section 56(3) and (4) of and”.
- (5) In sub-paragraph (f) for “and 66” substitute “, 66, 123(4) and 123(5)”.
- (6) In sub-paragraph (g) before “paragraphs” insert “section 42(4) and (5) of and”.

### **Social Security (Northern Ireland) Order 1998**

**41.** The Social Security (Northern Ireland) Order 1998(a) is amended as follows.

**42.** In article 11A(2)(d) (reference of issues by the Department to Inland Revenue) for “tax appeal Commissioners” substitute “First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

**43.** In article 24A(2)(c) (appeals dependent on issues falling to be decided by Inland Revenue) for “tax appeal Commissioners” substitute “First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

**44.** In article 39(1) (interpretation etc) omit the entry for “tax appeal Commissioners”.

### **Individual Savings Account Regulations 1998**

**45.** The Individual Savings Account Regulations 1998(b) are amended as follows.

**46.**—(1) Regulation 18 (account manager – appeal against withdrawal of Board’s approval) is amended as follows.

- (2) Omit paragraph (2).
- (3) In paragraph (3)—
  - (a) for “Special Commissioners shall on appeal to them” substitute “tribunal, on an appeal notified to it, shall”; and
  - (b) omit “they are”.

**47.**—(1) Regulation 27 (account manager’s returns and claims etc) is amended as follows.

- (2) In paragraph (3)—
  - (a) omit “shall be to the Special Commissioners”; and
  - (b) omit “, and the appeal”.
- (3) In paragraph (5) for “on appeal the Special Commissioners” substitute “on an appeal that is notified to the tribunal, the tribunal”.

### **Corporation Tax (Instalment Payments) Regulations 1998**

**48.** The Corporation Tax (Instalment Payments) Regulations 1998(c) are amended as follows.

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(a) S.I. 1998/1506 as amended by Schedule 6 to S.I. 1999/671.  
 (b) S.I. 1998/1870.  
 (c) S.I. 1998/3175.

**49.**—(1) Regulation 6 is amended as follows.

(2) In paragraph (4) for “Commissioners” substitute “tribunal”.

(3) For paragraph (5) substitute—

“(5) Any claim under paragraph (2) or application under paragraph (4) is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

### **Social Security Contributions (Transfer of Functions etc) (Northern Ireland) Order 1999**

**50.** The Social Security Contributions (Transfer of Functions etc) (Northern Ireland) Order 1999(a) is amended as follows.

**51.** In article 9(1)(c) (decisions varying or superseding earlier decisions) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”.

**52.** In article 10(2)(a) and (b) (appeals against decisions of board) for “tax appeal Commissioners”, in each place, substitute “tribunal”.

**53.**—(1) Article 11 (exercise of right of appeal) is amended as follows.

(2) For paragraph (3) substitute—

“(3) The notice of appeal shall specify the grounds of appeal.”.

(3) Omit paragraphs (4) and (5).

**54.**—(1) Article 12 (regulations with respect to appeals) is amended as follows.

(2) In paragraph (1) for “tax appeal Commissioners” substitute “tribunal”.

(3) Omit paragraph (2)(a)(i).

(4) In paragraph (2)(a)(ii) for “tax appeal Commissioners under the Taxes Acts” substitute “tribunal”;

(5) In paragraph (2)(a)(iii) for “sections 56 and 56A (appeals from their decisions)” substitute “section 56 (payment of tax where there is a further appeal)”.

(6) In paragraph (2)(b) for “tax appeal Commissioners” substitute “tribunal”.

(7) Omit paragraphs (3), (4) and (5).

**55.**—(1) Article 13 (matters arising as respects decisions) is amended as follows.

(2) In paragraphs (1)(b) and (2)(a) for “tax appeal Commissioners” substitute “tribunal”.

**56.** For article 18 (interpretation) substitute—

#### **“18. Interpretation of Part III**

In this Part—

“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

### **Overseas Insurers (Tax Representatives) Regulations 1999**

**57.** The Overseas Insurers (Tax Representatives) Regulations 1999(b) are amended as follows.

**58.**—(1) Regulation 13 (appeals against decisions of the board) is amended as follows.

(2) Omit paragraph (3).

(3) In paragraph (4)—

(a) omit “and in regulations made under sections 56B to 56D of that Act”;

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(a) S.I. 1999/671.

(b) S.I. 1999/881.

- (b) for “Special Commissioners must on appeal to them” substitute “tribunal, on an appeal notified to it, shall”; and
- (c) omit “they are”.

### **Social Security Contributions (Decisions and Appeals) Regulations 1999**

**59.**—(1) The Social Security Contributions (Decisions and Appeals) Regulations 1999(a) are amended as follows.

**60.** In regulation 3(3) (decisions – general)(b) omit “to the tax appeal Commissioners”.

**61.** In regulation 5(4) (variation of decision) for “tax appeal Commissioners determine” substitute “tribunal determines”.

**62.** For regulation 7 substitute—

*“Application of the Taxes Management Act 1970 in relation to reviews and appeals with modifications*

**7.**—(1) In this regulation reference to a section alone is reference to the section so numbered in the Management Act.

(2) For the purposes of these regulations, sections 49A to 49I of the Management Act(c) shall apply to appeals with the following modifications—

- (a) in section 49A(4) for “in accordance with section 54” substitute “in accordance with regulation 11 of the Social Security Contributions (Decisions and Appeals) Regulations 1999”,
- (b) in section 49C(4) for “agreement in writing under section 54(1)” substitute “agreement under regulation 11 of the Social Security Contributions (Decisions and Appeals) Regulations 1999”,
- (c) omit section 49C(5),
- (d) in section 49F(2) for “agreement in writing under section 54(1)” substitute “agreement under regulation 11 of the Social Security Contributions (Decisions and Appeals) Regulations 1999”,
- (e) omit section 49F(3)”.

**63.** Omit regulations 8 and 8A(d).

**64.** In regulation 9 (proceedings brought out of time) for “tax appeal Commissioners” substitute “tribunal”.

**65.**—(1) Regulation 10 (determination of appeals by tax appeal commissioners) is amended as follows.

(2) In the heading for “tax appeal Commissioners” substitute “the tribunal”.

(3) Omit “to the tax appeal Commissioners”.

(4) After “Order” insert “that is notified to the tribunal”.

(5) For “majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation or by other evidence,” substitute “tribunal”.

**66.** In regulation 11(1) and (5) (settling of appeals by agreement) for “tax appeal Commissioners” substitute “tribunal”.

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(a) S.I. 1999/1027.

(b) Regulation 3 has been amended by regulation 3(1) and (2)(a) of S.I. 2002/3120.

(c) 1970 c. 9. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

(d) Regulation 8 was amended and regulation 8A was inserted by regulations 2 to 4 of S.I. 2001/4023.



67. For regulation 12 substitute—

*“Appeals from the tribunal*

12. Section 56 of the Management Act (payment of tax where there is a further appeal) shall apply to appeals from the tribunal under Part II of the Transfer Act and Part III of the Transfer Order.”.

#### **Stamp Duty (Collection and Recovery of Penalties) Regulations 1999**

68. The Stamp Duty (Collection and Recovery of Penalties) Regulations 1999(a) are amended as follows.

69. The Schedule is amended as follows.

70.—(1) Part I – Table is amended as follows.

(2) In the entry for section 112—

- (a) in the modification of subsection (1) omit “omit the word “inspectors,””; and
- (b) omit the entry for subsection (2).

(3) In the entry for section 115 omit the entry for subsection (5).

(4) In the entry for section 118 omit the entry for “the General Commissioners Regulations”.

71.—(1) Part II (Taxes Management Act 1970) is amended as follows.

(2) In section 112 (as modified)—

- (a) in subsection (1)—
  - (i) for “the Commissioners, collectors and other officers having powers in relation to the penalty” substitute “HMRC”;
  - (ii) for the Commissioners having jurisdiction in the case” substitute “tribunal”; and
- (b) omit subsection (2).

(3) In section 115 (as modified) omit subsection (5).

(4) In section 118 (as modified) omit the entry for “the Special Commissioners Regulations”.

#### **Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999**

72. Omit paragraph 4 of Schedule 1 to the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999(b) (functions exercisable in or as regards Scotland: Taxes Management Act 1970).

#### **Education (Student Loans) (Repayment) Regulations 2000**

73.—(1) The Education (Student Loans) (Repayment) Regulations 2000(c) are amended as follows.

(2) In regulation 7—

- (a) in paragraph (3) for “Commissioners” substitute “the tribunal”; and
- (b) in paragraph (6) for “by any Commissioners” substitute “by the tribunal”.

(3) Omit regulation 45(5).

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(a) S.I. 1999/2537.  
(b) S.I. 1999/1748.  
(c) S.I. 2000/944.

## **Social Security (Contributions) Regulations 2001**

**74.** The Social Security (Contributions) Regulations 2001(a) are amended as follows.

**75.—**(1) For regulation 90Q(1)(b) substitute—

“(1) Section 31A(5) of the Management Act applies to appeals under regulation 90J as it applies to an appeal under section 31 of that Act.”.

(2) Omit paragraphs (2) and (3).

**76.—**(1) Part 3A of Schedule 4 (debts of managed service companies)(c) is amended as follows.

(2) Omit paragraph 29G(5).

(3) In paragraph 29H—

(a) in sub-paragraph (1) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”;

(b) in sub-paragraph (3)—

(i) for “Special Commissioners” substitute “tribunal”;

(ii) in paragraph (b) for “their” substitute “the tribunal’s”;

(c) in sub-paragraph (4) for “Special Commissioners determine” substitute “tribunal determines”;

(d) in sub-paragraph (5) for “Special Commissioners” substitute “tribunal”; and

(e) in sub-paragraph (7)—

(i) for “Special Commissioners” substitute “tribunal”;

(ii) for “their” substitute “the tribunal’s”.

(4) In paragraph 29J(1) for “Special Commissioners quash” substitute “tribunal quashes”.

## **Contracting Out (Administrative and Other Court Staff) Order 2001**

**77.** In the Contracting Out (Administrative and Other Court Staff) Order 2001(d) omit article 3.

## **Tax Credits (Payments by the Commissioners) Regulations 2002**

**78.—**(1) Regulation 11 of the Tax Credits (Payments by the Commissioners) Regulations 2002(e) is amended as follows.

(2) In paragraph (2) for “the appropriate tribunal, the” substitute “the First-tier Tribunal, the appeal tribunal, the”.

(3) In paragraph (4)—

(a) for “the appropriate tribunal, the” substitute “the First-tier Tribunal, the appeal tribunal, the”; and

(b) in sub-paragraph (b) for “appropriate tribunal” substitute “First-tier Tribunal or the appeal tribunal”.

(4) In paragraph (5) for “Appropriate tribunal” substitute “Appeal tribunal”.

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(a) S.I. 2001/1004.

(b) Regulation 90Q was inserted by regulations 2 and 23 of S.I. 2004/770.

(c) Paragraphs 29A to 29L were inserted by regulation 2 of S.I. 2007/2068.

(d) S.I. 2001/3698.

(e) S.I. 2002/2173. Regulation 11 was amended by paragraph 190 of Schedule 1 to S.I. 2008/2683.

## **Freedom of Information (Excluded Welsh Authorities) Order 2002**

79. In Part 2 of the Schedule to the Freedom of Information (Excluded Welsh Authorities) Order 2002(a) (excluded authorities: other bodies and offices) omit the entry relating to the “Advisory Committee on General Commissioners of Income Tax”.

## **Tax Credits (Appeals) Regulations 2002**

80. The Tax Credits (Appeals) Regulations 2002(b) are amended as follows.

81. In regulation 3(2) for “Commissioners” substitute “tribunal”.

82.—(1) Regulation 12 (application of section 39 etc) is amended as follows.

(2) For paragraph (2)(c) substitute—

“(c) omit the definition of “relevant benefit””.

(3) For paragraph (3)(b) substitute—

“(b) omit the definition of “relevant benefit””.

## **Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003**

83.—(1) Regulation 16 of the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations (c) (appeals against refusal to grant accreditation or withdrawal of accreditation) is amended as follows.

(2) In paragraph (1) omit “to the Special Commissioners”.

(3) In paragraphs (3) and (4) for “Special Commissioners” substitute “tribunal”.

(4) For paragraph (5) substitute—

“(5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal shall be final.”.

## **Tax Credits (Employer Penalty Appeals) Regulations 2003**

84. The Tax Credits (Employer Penalty Appeals) Regulations 2003(d) are amended as follows.

85. In regulation 3 for “(appeals to Commissioners)” substitute “(appeals)”.

86. Omit regulations 4 to 6.

87. In regulation 7 for “General Commissioners or to the Special Commissioners” substitute “tribunal”.

88. Omit regulation 8.

89. For regulation 10 substitute “Omit section 56 of the Act”.

## **Land Registry Rules 2003**

90. In Schedule 5 to the Land Registry Rules(e) in the entry in the first column relating to a person authorised to apply by the Commissioners for Her Majesty’s Revenue and Customs for “a General/Special Commissioner” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

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(a) S.I. 2002/2832.

(b) S.I. 2002/2926. Regulations 3 and 12 were amended by paragraphs 193 and 202 of Schedule 1 to S.I. 2008/2683.

(c) S.I. 2003/96. Regulation 16 was amended by articles 2 and 5 of S.I. 2008/383.

(d) S.I. 2003/1382.

(e) S.I. 2003/1417.

## **Income Tax (Incentive Payments for Voluntary Electric Communication of PAYE Returns) Regulations 2003**

**91.**—(1) The Income Tax (Incentive Payments for Voluntary Electric Communication of PAYE Returns) Regulations 2003(a) are amended as follows.

(2) For regulation 6(4) to (7) substitute—

“(4) Section 31A(5) of the Management Act applies to an appeal under these Regulations as it applies to an appeal under section 31 of that Act.”.

## **Income Tax (Pay As You Earn) Regulations 2003**

**92.** The Income Tax (Pay As You Earn) Regulations 2003(b) are amended as follows.

**93.** In regulation 2 (interpretation) after the entry for “trade dispute” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**94.**—(1) Regulation 18 (objections and appeals against employee’s code) is amended as follows.

(2) In paragraph (3) omit “to the General Commissioners”.

(3) In paragraph (4) for “On appeal, the General Commissioners” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) Omit paragraph (5).

**95.** In regulation 19(1) (amendment of code) for “General Commissioners” substitute “tribunal”.

**96.**—(1) Regulation 72A(6) (employer’s request for a direction and an appeal against refusal)(c) is amended as follows.

(2) After “under paragraph (4)” insert “that is notified to the tribunal”.

(3) For “Commissioners” substitute “tribunal”.

(4) For “they” substitute “the tribunal”.

(5) For “Commissioners determine” substitute “tribunal determines”.

**97.**—(1) Regulation 72B(3) (employee’s appeal against a direction where condition A is met) is amended as follows.

(2) For “the Commissioners” substitute “that is notified to the tribunal, the tribunal”, and

(3) In sub-paragraphs (a) and (b) omit “to them”.

**98.**—(1) Regulation 72C(3) (employee’s appeal against a direction where condition B is met) is amended as follows.

(2) For “the Commissioners” substitute “that is notified to the tribunal, the tribunal”.

(3) In sub-paragraphs (a) and (b) omit “to them”.

**99.**—(1) Regulation 72D (appeals: supplementary provisions) is amended as follows.

(2) Omit paragraphs (2), (3) and (5) to (7).

(3) In paragraph (4)—

(a) for “If” substitute “This paragraph applies if”; and

(b) omit “the Commissioners who are to determine the appeals are given in paragraphs (5) to (7)”.

(4) For paragraph (8) substitute—

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(a) S.I. 2003/2495.

(b) S.I. 2003/2682 as amended by regulations 2, 4 and 6 of S.I. 2004/851, and by regulations 2 and 7 of S.I. 2008/782.

(c) Regulations 72A to 72D were inserted by regulations 2 and 4 of S.I. 2004/851.

“(8) Where paragraph (4) applies or the appeal is material to the liability to tax of the employer and the employee, all the persons concerned are entitled to be parties to the appeal.”.

(5) Omit paragraph (9).

**100.**—(1) Regulation 72G(3) (employee’s appeal against a direction notice)(a) is amended as follows.

(2) For “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and

(3) In sub-paragraphs (a) and (b) omit “to them”.

**101.**—(1) Regulation 80 (determination of unpaid tax and appeal against determination) is amended as follows.

(2) In paragraph (5) omit “(other than section 55)”.

(3) Omit paragraph (6).

**102.**—(1) Regulation 81A(3) (employee’s appeal against direction notice)(b) is amended as follows.

(2) For “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and

(3) In sub-paragraphs (a) and (b) omit “to them”.

**103.** Omit regulation 97G(5).

**104.**—(1) Regulation 97H (procedure on appeals)(c) is amended as follows.

(2) In paragraph (1) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

(3) In paragraph (3)—

(a) for “Special Commissioners” substitute “tribunal”; and

(b) in sub-paragraph (b) for “their opinion” substitute “the tribunal’s opinion”;

(4) In paragraph (4) for “Special Commissioners determine” substitute “tribunal determines”;

(5) In paragraph (5) for “Special Commissioners” substitute “tribunal”;

(6) In paragraph (7)—

(a) for “Special Commissioners” substitute “tribunal”; and

(b) for “their opinion” substitute “the tribunal’s opinion”.

**105.** In regulation 97J (withdrawal of transfer notices) for “Special Commissioners quash” substitute “tribunal quashes”.

**106.** Omit paragraph (5) of regulation 110.

**107.** Omit regulation 126(7).

**108.**—(1) Regulation 127 (appeal to Commissioners) is amended as follows.

(2) In the heading, for “Commissioners” substitute “the tribunal”.

(3) In paragraph (1) for “appeal, the Commissioners” substitute “an appeal that is notified to the tribunal, the tribunal”.

(4) In paragraph (3) for “Commissioners determine” substitute “tribunal determines”.

(5) Omit paragraph (4).

**109.** In regulation 128(1) (amended determinations) for “Commissioners” substitute “tribunal”.

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(a) Regulation 72G was inserted by regulations 2 and 7 of S.I. 2008/782.

(b) Regulation 81A was inserted by regulations 2 and 6 of S.I. 2004/851.

(c) Regulations 97A to 97L were inserted by regulation 2 of S.I. 2007/2069.

**110.**—(1) Regulation 204(8) (surcharge notice and appeal) is amended as follows.

(2) For “Commissioners” substitute “tribunal”.

(3) In sub-paragraphs (a), (b) and (c) omit “to them”.

**111.**—(1) Regulation 217 (appeals: supplementary provisions) is amended as follows.

(2) In paragraph (1) omit “and (6)” and the entries for section 31B and section 31D.

(3) Omit paragraphs (3) and (4).

### **Stamp Duty Land Tax (Administration) Regulations 2003**

**112.** The Stamp Duty Land Tax (Administration) Regulations 2003(a) are amended as follows.

**113.** In regulation 2 after the definition of “the Board” insert—

““HMRC” means Her Majesty’s Revenue and Customs;”.

**114.** In paragraphs (2)(b) and (4)(a) of regulation 15 (recovery of tax not postponed by application) for “Commissioners” substitute “tribunal”.

**115.** Omit regulation 19(2).

**116.** For regulation 20(3) substitute—

“(3) The provisions of paragraphs 36A to 36I of Schedule 10 to the 2003 Act(b) apply to appeals under this regulation.”.

**117.** In regulation 21(1) (settling of appeals by agreement) for “Commissioners” substitute “tribunal”.

**118.**—(1) Regulation 22 (direction by Commissioners postponing payment) is amended as follows.

(2) In the heading for “Commissioners” substitute “the tribunal”.

(3) For paragraph (1) substitute—

“(1) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

(a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;

(b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed;

an application under sub-paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.”.

(4) Omit paragraph (2).

(5) In paragraph (3) for “by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further” substitute “if the parties cannot agree on a revised determination, apply, at any time before the determination of the appeal, to the tribunal for a revised”.

(6) For paragraph (4) substitute—

“(4) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

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(a) S.I. 2003/2837.

(b) 2003 c. 14. Paragraphs 36A to 36I were inserted by paragraph 388 of Schedule 1 to this Order.

(7) In paragraph (5) omit “to the Commissioners, having regard to the representations made and any evidence adduced.”.

(8) In paragraph (7)(a) for “the Inland Revenue” substitute “HMRC”.

119. In regulation 23(1) for “Commissioners” substitute “tribunal”.

### **Export (Penalty) Regulations 2003**

120. The Export (Penalty) Regulations 2003(a) are amended as follows.

121.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the definition of “appeal tribunal” for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

(3) After the definition of “exporter” insert—

““HMRC” means Her Majesty’s Revenue and Customs.”.

122. In regulation 6(2)(a) (demands for penalties) for “12” substitute “9”.

123.—(1) Regulation 9 (right to review of certain decisions) is amended as follows.

(2) For the heading substitute “Right to appeal against certain decisions”.

(3) In paragraph (1)—

(a) for the first occurrence of “the Commissioners” substitute “HMRC”;

(b) in sub-paragraphs (a) and (c) for “they” substitute “HMRC”; and

(c) for “give a notice to the Commissioners requiring them to review” substitute “make an appeal to the appeal tribunal in respect of”.

(4) In paragraph (2)—

(a) for the first occurrence of “the Commissioners” substitute “HMRC”; and

(b) for “by notice require the Commissioners to review” substitute “make an appeal to the appeal tribunal in respect of”.

(5) For paragraph (3) substitute—

“(3) The powers of the appeal tribunal on an appeal under this regulation include—

(a) power to quash or vary a decision; and

(b) power to substitute the tribunal’s own decision for any decision so quashed.

(4) On an appeal under this regulation—

(a) the burden of proof as to the matters mentioned in regulation 3(1) lies on HMRC; but

(b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.”.

124. After regulation 9 insert—

#### **“Offer of review**

9A.—(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 9 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.

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(a) S.I. 2003/3102.

### **Review by HMRC**

**9B.**—(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under regulation 9A, and
- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under regulation 9F.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under regulation 9F in respect of the decision.

### **Extensions of time**

**9C.**—(1) If under regulation 9A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) In this regulation “relevant period” means—

- (a) the period of 30 days referred to in regulation 9B(1)(b), or
- (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).

### **Review out of time**

**9D.**—(1) This regulation applies if—

- (a) HMRC have offered a review of a decision under regulation 9A, and
- (b) P does not accept the offer within the time allowed under regulation 9B(1)(b) or 9C(2).

(2) HMRC must review the decision under regulation 9B if—

- (a) after the time allowed, P notifies HMRC in writing requesting a review out of time,
- (b) HMRC are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) HMRC are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under regulation 9F in respect of the decision.

### **Nature of review etc**

**9E.**—(1) This regulation applies if HMRC are required to undertake a review under regulation 9B or 9D.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.



(4) The review must take account of any representations made by P at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(1) HMRC must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within regulation 9A), or
- (b) the date on which HMRC decided to undertake the review (in a case falling within regulation 9D).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies HMRC must notify P of the conclusion which the review is treated as having reached.

### **Bringing of appeals**

**9F.**—(1) An appeal under regulation 9 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of regulation 9C).

(2) But that is subject to paragraphs (3) to (5).

(3) In a case where HMRC are required to undertake a review under regulation 9B—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review in accordance with regulation 9D—

- (a) an appeal may not be made—
  - (i) unless HMRC have decided whether or not to undertake a review, and
  - (ii) if HMRC decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if HMRC decide to undertake a review), or
  - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where regulation 9E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 9E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.”.

**125.** Omit regulations 10 to 12.

**126.** For regulation 13 (appeal tribunals) substitute—

**“13 Appeal Tribunals**

Section 85 of the Value Added Tax Act 1994 (c. 23) (settling of appeals by agreement) has effect as if the reference to section 83 of that Act included a reference to regulation 9 above.”.

**Child Trust Funds Regulations 2004**

**127.**—(1) Regulation 28 of the Child Trust Funds Regulations 2004(a) (account provider’s tax claims – supplementary provisions) is amended as follows.

(2) In sub-paragraph (3)—

(a) omit “shall be to the Special Commissioners”; and

(b) omit “, and the appeal”.

(3) In sub-paragraph (5) for “, and on appeal the Special Commissioners” substitute “and, on an appeal that is notified to the tribunal, the tribunal”.

**Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004**

**128.** The Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004(b) are amended as follows.

**129.**—(1) Regulation 10 (procedure for Board’s approval) is amended as follows.

(2) In paragraph (3) for “Special Commissioners”, on both occurrences, substitute “tribunal”.

(3) In paragraph (4) for “Special Commissioners” and “Commissioners” substitute “tribunal”.

**Exemption from Tax for Certain Interest Payments Regulations 2004**

**130.**—(1) Regulation 9 of the Exemption from Tax for Certain Interest Payments Regulations 2004(c) (appeals against refusal to issue an exemption notice or cancellation of an exemption notice) is amended as follows.

(2) In paragraph (1) omit “to the Special Commissioners”.

(3) In paragraph (4) for “If the Special Commissioners allow the appeal, they may also” substitute “If, on its being notified to the tribunal, the tribunal allows the appeal it may also”.

(4) For paragraph (5) substitute—

“(5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal shall be final.”.

**Child Trust Funds (Non-tax Appeals) Regulations 2005**

**131.** The Child Trust Funds (Non-tax Appeals) Regulations 2005(d) are amended as follows.

**132.** Omit regulation 1(2).

**133.** In regulation 4(2) (application of section 54 of the Taxes Management Act 1970) for “Commissioners” substitute “tribunal”.

**134.**—(1) Regulation 14 (application of section 39 of the 1998 Act etc) is amended as follows—

(2) for paragraphs (2)(b) and (3)(b) substitute—

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(a) S.I. 2004/1450.  
(b) S.I. 2004/2199.  
(c) S.I. 2004/2622.  
(d) S.I. 2005/191.

“(b) omit the definitions of “claimant” and “relevant benefit.””.

#### **Child Trust Funds (Appeals) (Northern Ireland) Regulations 2005**

**135.** Omit regulation 1(2) of the Child Trust Funds (Appeals) (Northern Ireland) Regulations 2005(a).

#### **Child Trust Funds (Appeals) Regulations 2005**

**136.** Omit regulation 1(2) of the Child Trust Funds (Appeals) Regulations 2005(b).

#### **Income Tax (Construction Industry Scheme) Regulations 2005**

**137.** The Income Tax (Construction Industry Scheme) Regulations 2005(c) are amended as follows.

**138.**—(1) Regulation 2 (interpretation) is amended as follows.

(2) Omit the entry for “tax appeal Commissioners”.

(3) After the entry for “TMA” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**139.**—(1) Regulation 9(9) (recovery from sub-contractor of amount not deducted by contractor) is amended as follows.

(2) For “it appears to the tax appeal Commissioners”, substitute “that is notified to the tribunal it appears”.

(3) For “they” substitute “the tribunal”.

(4) For “tax appeal Commissioners determine” substitute “tribunal determines”.

**140.**—(1) Regulation 13 (determination of amounts payable by contractor and appeal against determination) is amended as follows.

(2) In paragraph (6) for “General Commissioners” substitute “tribunal”.

(3) Omit paragraph (7).

**141.** Omit regulation 25(6).

**142.**—(1) Regulation 59 (appeals: supplementary provisions) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Section 31A(5) and (6) of TMA applies to appeals under regulation 47 (default notice and appeal) as it applies to an appeal under section 31 of that Act.”.

(3) Omit paragraphs (2) and (3).

#### **Registered Pension Schemes (Relief at Source) Regulations 2005**

**143.** The Registered Pension Schemes (Relief at Source) Regulations 2005(d) are amended as follows.

**144.** In regulation 2(2) (interpretation) after the entry for “TMA 1970” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

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(a) S.I. 2005/907.  
(b) S.I. 2005/990.  
(c) S.I. 2005/2045.  
(d) S.I. 2005/3448.

**145.**—(1) Regulation 12 (claims: supplementary provisions) is amended as follows.

(2) In paragraph (3)—

- (a) omit “shall lie to the Special Commissioners”; and
- (b) omit “, and the appeal”.

(3) In paragraph (5) for “and on an appeal to the Special Commissioners” substitute “and, on an appeal that is notified to the tribunal, the tribunal”.

### **Hydrocarbon Oil (Registered Remote Markers) Regulations 2005**

**146.** In regulation 13(4)(b) (relief that is not allowed) of the Hydrocarbon Oil (Registered Remote Markers) Regulations 2005(a) omit “VAT and duties”.

### **Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006**

**147.** The Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006(b) are amended as follows.

**148.** In regulation 2(1) (interpretation) after the entry for “the specified regulations” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**149.**—(1) Regulation 12 (late submission of notification) is amended as follows.

(2) In paragraph (4) omit “to the Commissioners”.

(3) Omit paragraph (5).

(4) In paragraph (7) for “appeal, the Commissioners” substitute “appeal that is notified to the tribunal, the tribunal”.

(5) In paragraph (8)—

- (a) for “Commissioners allow” substitute “tribunal allows”; and
- (b) for “they” substitute “the tribunal”.

**150.**—(1) Regulation 14 (appeal against refusal to issue certificate) is amended as follows.

(2) In paragraph (3) omit “to the Commissioners”.

(3) Omit paragraph (4).

(4) In paragraph (6) for “appeal, the Commissioners” substitute “appeal that is notified to the tribunal, the tribunal”.

(5) In paragraph (7)—

- (a) for “Commissioners allow” substitute “tribunal allows”;
- (b) for “they” substitute “the tribunal”; and
- (c) for “Commissioners” substitute “tribunal”.

**151.**—(1) Regulation 14A (appeal against refusal to confirm validity of notification)(c) is amended as follows.

(2) In paragraph (3) omit “to the Commissioners”.

(3) Omit paragraph (4).

(4) In paragraph (6) for “appeal, the Commissioners” substitute “appeal that is notified to the tribunal, the tribunal”.

(5) In paragraph (7)—

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(a) S.I. 2005/3472.

(b) S.I. 2006/131.

(c) Regulation 14A was inserted by regulations 2 and 9 of S.I. 2006/3261.

- (a) for “Commissioners allow” substitute “tribunal allows”;
- (b) for “they” substitute “the tribunal”; and
- (c) for “Commissioners” substitute “tribunal”.

**152.**—(1) Regulation 24 (revocation or amendment of certificate) is amended as follows.

- (2) In paragraph (3) omit “to the Commissioners”.
- (3) Omit paragraph (4).
- (4) In paragraph (6) for “appeal, the Commissioners” substitute “appeal that is notified to the tribunal, the tribunal”.
- (5) In paragraph (7)—
  - (a) for “Commissioners allow” substitute “tribunal allows”;
  - (b) for “they” substitute “the tribunal”; and
  - (c) for “Commissioners” substitute “tribunal”.
- (6) In paragraph (8)—
  - (a) for “Commissioners determine” substitute “tribunal determines”; and
  - (b) for “Commissioners”, in both other places, substitute “tribunal”.
- (7) in paragraph (9)—
  - (a) for “Commissioners determine” substitute “tribunal determines”; and
  - (b) for “Commissioners”, in both other places, substitute “tribunal”.

**Registered Pension Schemes and Overseas Pensions Schemes (Electronic Communications of Returns and Information) Regulations 2006**

**153.**—(1) The Registered Pension Schemes and Overseas Pensions Schemes (Electronic Communications of Returns and Information) Regulations 2006(a) are amended as follows.

- (2) In regulation 2 (interpretation) omit the entry for “the tax appeal Commissioners”.
- (3) In Schedule 2 omit “to the tax appeal Commissioners” in each place.

**Authorised Investment Funds (Tax) Regulations 2006**

**154.** The Authorised Investment Funds (Tax) Regulations 2006(b) are amended as follows.

**155.** In regulation 8 (general interpretation) after the entry for “tax year” insert—

““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**156.**—(1) Regulation 69T (appeal against quashing notice)(c) is amended as follows.

- (2) In paragraph (1) omit “to the Special Commissioners”.
- (3) In paragraph (3) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.
- (4) In paragraph (4)—
  - (a) for “Special Commissioners allow” substitute “tribunal allows”; and
  - (b) for “they may” in sub-paragraphs (a) and (b) substitute “the tribunal may”.

**157.**—(1) Regulation 69Z11 (appeal against notice under regulation 69Z10) is amended as follows.

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(a) S.I. 2006/570.  
 (b) S.I. 2006/964 as amended by regulations 2 and 5 of S.I. 2008/705.  
 (c) Regulations 69T and 69Z1 to 69Z41 were inserted by regulations 2 and 5 of S.I. 2008/705.

- (2) In paragraph (1) omit “to the Special Commissioners”.
- (3) In paragraph (3) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

**158.**—(1) Regulation 69Z38 (appeal against termination notice) is amended as follows.

- (2) In paragraphs (1) omit “to the Special Commissioners”.
- (3) In paragraph (3) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.
- (4) In paragraphs (4) and (5)—
  - (a) for “they decide” substitute “the tribunal decides”; and
  - (b) for “they must” substitute “the tribunal must”.

#### **Scottish Parliament (Disqualification) Order 2007**

**159.**—(1) Part 1 of the Schedule to the Scottish Parliament (Disqualification) Order 2007(a) (office-holders disqualified from being a member of the Scottish Parliament) is amended as follows.

- (2) Omit the entries relating to—
  - (a) Chairman of the tribunal constituted under section 706 of the Income and Corporation Taxes Act 1988; and
  - (b) President or Vice-President of Value Added Tax Tribunals or full-time chairman of Value Added Tax Tribunals.

#### **Control of Cash (Penalties) Regulations 2007**

**160.** The Control of Cash (Penalties) Regulations 2007(b) are amended as follows—

**161.** In regulation 2 (interpretation) after “the Commissioners” insert—  
““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

**162.**—(1) Regulation 3 (power to impose penalties) is amended as follows.

- (2) For paragraph (2) substitute—
  - “(2) Where the Commissioners decide to impose a penalty under this regulation, they must forthwith—
    - (a) inform the person in writing of their decision to impose the penalty and its amount, of their reasons for imposing the penalty and of the right to appeal to the tribunal; and at the same time
    - (b) offer the person a review under regulation 4A.”.

**163.**—(1) Regulation 4 (review procedure) is amended as follows.

- (2) For the heading substitute “Appeals”.
- (3) In paragraph (1) for “by notice in writing to the Commissioners require them to review” substitute “make an appeal to the tribunal in respect of”.
- (4) Omit paragraphs (2) to (5).

**164.** After regulation 4 insert—

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(a) S.I. 2007/285.  
(b) S.I. 2007/1509.

### **“Offer of review**

**4A.**—(1) The Commissioners must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 4 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.

### **Review by the Commissioners**

**4B.**—(1) The Commissioners must review a decision if—

- (a) they have offered a review of the decision under regulation 4A, and
- (b) P notifies the Commissioners accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under regulation 4F.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 4F in respect of the decision.

### **Extensions of time**

**4C.**—(1) If under regulation 4A, the Commissioners have offered P a review of a decision, the Commissioners may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) In this regulation “relevant period” means—

- (a) the period of 30 days referred to in regulation 4B(1)(b), or
- (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).

### **Review out of time**

**4D.**—(1) This regulation applies if—

- (a) the Commissioners have offered a review of a decision under regulation 4A, and
- (b) P does not accept the offer within the time allowed under regulation 4B(1)(b) or 4C(2).

(2) The Commissioners must review the decision under regulation 4C if—

- (a) after the time allowed, P notifies the Commissioners in writing requesting a review out of time,
- (b) the Commissioners are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) the Commissioners are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 4F in respect of the decision.

### **Nature of review etc**

**4E.**—(1) This regulation applies if the Commissioners are required to undertake a review under regulation 4B or 4D.

(2) The nature and extent of the review are to be such as appear appropriate to the Commissioners in the circumstances.

(3) For the purpose of paragraph (2), the Commissioners must, in particular, have regard to steps taken before the beginning of the review—

- (a) by the Commissioners in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P at a stage which gives the Commissioners a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) The Commissioners must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as the Commissioners and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) the date the Commissioners received P’s notification accepting the offer of a review (in a case falling within regulation 4A), or
- (b) the date on which the Commissioners decided to undertake the review (in a case falling within regulation 4D).

(8) Where the Commissioners are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies, the Commissioners must notify P of the conclusion which the review is treated as having reached.

### **Bringing of appeals**

**4F.**—(1) An appeal under regulation 4 is to be made to the tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of regulation 4C).

(2) But that is subject to paragraphs (3) to (5).

(3) In a case where the Commissioners are required to undertake a review under regulation 4B—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 4D—

- (a) an appeal may not be made—
  - (i) unless the Commissioners have decided whether or not to undertake a review, and



(ii) if the Commissioners decide to undertake a review, until the conclusion date;  
and

(b) any appeal is to be made within the period of 30 days beginning with—

(i) the conclusion date (if the Commissioners decide to undertake a review), or

(ii) the date on which the Commissioners decide not to undertake a review.

(5) In a case where regulation 4E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 4E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.

(7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.”.

**165.** For regulation 5 substitute—

**“Settling of appeals by agreement**

**5.** Section 85 of the Value Added Tax Act 1994 (settling of appeals by agreement)(a) shall have effect as if the reference to section 83 of that Act included a reference to regulation 4 above.”.

**166.** In regulation 6 for “5” substitute “4”.

**167.** For regulation 7 substitute—

“7.—(1) An appeal shall not be entertained unless—

(a) the amount which the Commissioners have imposed by way of a penalty has been paid to them; or

(b) (i) the Commissioners are satisfied (on the application of the appellant), or

(ii) the tribunal decides (the Commissioners not being so satisfied and on the application of the appellant),

that the requirement would cause the appellant to suffer hardship.

(2) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.”.

**Money Laundering Regulations 2007**

**168.** The Money Laundering Regulations 2007(b) are amended as follows.

**169.**—(1) Regulation 29 (determination of applications under regulation 27) is amended as follows.

(2) For paragraph (2)(b)(iii) substitute—

“(iii) the right to a review under regulation 43A; and”.

(3) In paragraph (2)(b)(iv) for “44(1)(a)” substitute “43”.

**170.**—(1) Regulation 30 (cancellation of registration etc) is amended as follows.

(2) For paragraph (3)(c) substitute—

“(c) the right to a review under regulation 43A; and”.

(3) In paragraph (3)(d) for “44(1)(a)” substitute “43”.

**171.**—(1) Regulation 42 (power to impose civil penalties) is amended as follows.

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(a) 1994 c. 23.  
(b) S.I. 2007/2157.

- (2) In paragraph (5)(c) for “43” substitute “43A”.
- (3) In paragraph (5)(d) for “44(1)(a)” substitute “43”.

**172.**—(1) Regulation 43 (review procedure) is amended as follows.

- (2) For the heading substitute “Appeals against decisions of the Commissioners”.
- (3) In paragraph (2) for “by notice to the Commissioners require them to review that decision” substitute “appeal to the tribunal in accordance with regulation 43F”.
- (4) For paragraphs (3) to (5) substitute—

“(3) The provisions of Part 5 of the Value Added Tax Act 1994 (appeals)(a), subject to the modifications set out in paragraph 1 of Schedule 5 to these Regulations, apply in respect of appeals to a tribunal made under this regulation as they apply in respect of appeals made to the tribunal under section 83 (appeals) of that Act.

(4) A tribunal hearing an appeal under paragraph (2) has the power to—

- (a) quash or vary any decision of the supervisory authority, including the power to reduce any penalty to such amount (including nil) as it thinks proper, and
- (b) substitute its own decision for any decision quashed on appeal.

(5) The modifications in Schedule 5 have effect for the purposes of appeals made under this regulation.

(6) For the purposes of appeals under this regulation, the meaning of “tribunal” is as defined in section 82 of the Value Added Tax Act 1994.”.

**173.** After regulation 43 insert—

**“Offer of review**

**43A.**—(1) The Commissioners must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 43 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.

**Review by the Commissioners**

**43B.**—(1) The Commissioners must review a decision if—

- (a) they have offered a review of the decision under regulation 43A, and
- (b) P notifies the Commissioners accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under regulation 43F.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 43F in respect of the decision.

**Extensions of time**

**43C.**—(1) If under regulation 43A, the Commissioners have offered P a review of a decision, the Commissioners may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or

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(a) 1994 c. 23. Sections 83A to 83G were inserted by paragraph 220 of Schedule 1 to this Order and sections 85A and 85B by paragraph 223 of that Schedule.

- (b) any other date set out in the notice or a further notice.
- (3) In this regulation “relevant period” means—
  - (a) the period of 30 days referred to in regulation 43B(1)(b), or
  - (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).

**Review out of time**

- 43D.**—(1) This regulation applies if—
- (a) the Commissioners have offered a review of a decision under regulation 43A, and
  - (b) P does not accept the offer within the time allowed under regulation 43B(1)(b) or 43C(2).
- (2) The Commissioners must review the decision under regulation 43B if—
- (a) after the time allowed, P notifies the Commissioners in writing requesting a review out of time,
  - (b) the Commissioners are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
  - (c) the Commissioners are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.
- (3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 43F in respect of the decision.

**Nature of review etc**

- 43E.**—(1) This regulation applies if the Commissioners are required to undertake a review under regulation 43B or 43D.
- (2) The nature and extent of the review are to be such as appear appropriate to the Commissioners in the circumstances.
- (3) For the purpose of paragraph (2), the Commissioners must, in particular, have regard to steps taken before the beginning of the review—
- (a) by the Commissioners in reaching the decision, and
  - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P at a stage which gives the Commissioners a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
- (a) upheld,
  - (b) varied, or
  - (c) cancelled.
- (6) The Commissioners must give P notice of the conclusions of the review and their reasoning within—
- (a) a period of 45 days beginning with the relevant date, or
  - (b) such other period as the Commissioners and P may agree.
- (7) In paragraph (6) “relevant date” means—
- (a) the date the Commissioners received P’s notification accepting the offer of a review (in a case falling within regulation 43A), or
  - (b) the date on which the Commissioners decided to undertake the review (in a case falling within regulation 43D).

(8) Where the Commissioners are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies, the Commissioners must notify P of the conclusion which the review is treated as having reached.

### **Bringing of appeals against decisions of the Commissioners**

**43F.**—(1) An appeal under regulation 43 is to be made to the tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of regulation 43C).

(2) But that is subject to paragraphs (3) to (5).

(3) In a case where the Commissioners are required to undertake a review under regulation 43B—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 43D—

- (a) an appeal may not be made—
  - (i) unless the Commissioners have decided whether or not to undertake a review, and
  - (ii) if the Commissioners decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if the Commissioners decide to undertake a review), or
  - (ii) the date on which the Commissioners decide not to undertake a review.

(5) In a case where regulation 43E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 43E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.

(7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.”.

**174.**—(1) Regulation 44 (appeals) is amended as follows.

- (2) Omit paragraphs (1)(a) and (2)(a).
- (3) Omit paragraph (3).
- (4) Omit paragraph (6).

**175.** For paragraph 1 of Schedule 5 (modifications in relation to appeals) substitute—

“**1.** Part 5 of the Value Added Tax Act 1994 (appeals)(a) is modified by omitting sections 83A to 84, 85A and 85B.”.

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(a) 1994 c. 23; sections 83A to 83G were inserted by paragraph 220 of Schedule 1 to this Order and sections 85A and 85B by paragraph 223 of that Schedule.

## **Transfer of Funds (Information on the Payer) Regulations 2007**

**176.** The Transfer of Funds (Information on the Payer) Regulations 2007(a) are amended as follows.

**177.**—(1) Regulation 11 (power to impose civil penalties) is amended as follows.

(2) In paragraph (5)(c) for “12” substitute “12A”.

(3) In paragraph (5)(d) for “13(1)(b)” substitute “12”.

**178.**—(1) Regulation 12 (review procedure) is amended as follows.

(2) For the heading substitute “Appeals against decisions of the Commissioners”.

(3) In paragraph (1) for “by notice to the Commissioners require them to review that decision” substitute “may appeal to the tribunal in accordance with regulation 12F”.

(4) For paragraphs (2) to (4) substitute—

“(2) The provisions of Part 5 of the Value Added Tax Act 1994 (appeals)(b), subject to the modifications set out in paragraph 2 of Schedule 2 of these Regulations, apply in respect of appeals to a tribunal made under this regulation as they apply in respect of appeals made to the tribunal under section 83 (appeals) of that Act.

(3) A tribunal hearing an appeal under paragraph (2) has the power to—

(a) quash or vary any decision of the supervisory authority, including the power to reduce any penalty to such amount (including nil) as it thinks proper, and

(b) substitute its own decision for any decision quashed on appeal.

(4) For the purposes of appeals under this regulation, the meaning of “tribunal” is as defined in section 82 of the Value Added Tax Act 1994.”.

**179.** After regulation 12 insert—

### **“Offer of review**

**12A.**—(1) The Commissioners must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 12 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.

### **Review by the Commissioners**

**12B.**—(1) The Commissioners must review a decision if—

(a) they have offered a review of the decision under regulation 12A, and

(b) P notifies the Commissioners accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under regulation 12F.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 12F in respect of the decision.

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(a) S.I. 2007/3298.

(b) 1994 c. 23. Sections 83A to 83G were inserted by paragraph 220 of Schedule 1 to this Order and sections 85A and 85B by paragraph 223 of that Schedule.

### **Extensions of time**

**12C.**—(1) If under regulation 12A, the Commissioners have offered P a review of a decision, the Commissioners may within the relevant period notify P that the relevant period is extended.

- (2) If notice is given the relevant period is extended to the end of 30 days from—
  - (a) the date of the notice, or
  - (b) any other date set out in the notice or a further notice.
- (3) In this regulation “relevant period” means—
  - (a) the period of 30 days referred to in regulation 12B(1)(b), or
  - (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).

### **Review out of time**

**12D.**—(1) This regulation applies if—

- (a) The Commissioners have offered a review of a decision under regulation 12A, and
- (b) P does not accept the offer within the time allowed under regulation 12B(1)(b) or 12C(2).

(2) The Commissioners must review the decision under regulation 12B if—

- (a) after the time allowed, P notifies the Commissioners in writing requesting a review out of time,
- (b) the Commissioners are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
- (c) the Commissioners are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 12F in respect of the decision.

### **Nature of review etc**

**12E.**—(1) This regulation applies if the Commissioners are required to undertake a review under regulation 12B or 12D.

(2) The nature and extent of the review are to be such as appear appropriate to the Commissioners in the circumstances.

(3) For the purpose of paragraph (2), the Commissioners must, in particular, have regard to steps taken before the beginning of the review—

- (a) by the Commissioners in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P at a stage which gives the Commissioners a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) The Commissioners must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as the Commissioners and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) the date the Commissioners received P’s notification accepting the offer of a review (in a case falling within regulation 12A), or
- (b) the date on which the Commissioners decided to undertake the review (in a case falling within regulation 12D).

(8) Where the Commissioners are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies, the Commissioners must notify P of the conclusion which the review is treated as having reached.

### **Bringing of appeals against decisions of the Commissioners**

**12F.**—(1) An appeal under regulation 12 is to be made to the tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of regulation 12C).

(2) But that is subject to paragraphs (3) to (5).

(3) In a case where the Commissioners are required to undertake a review under regulation 12B—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 12D—

- (a) an appeal may not be made—
  - (i) unless the Commissioners have decided whether or not to undertake a review, and
  - (ii) if the Commissioners decide to undertake a review, until the conclusion date; and
- (b) any appeal is to be made within the period of 30 days beginning with—
  - (i) the conclusion date (if the Commissioners decide to undertake a review), or
  - (ii) the date on which the Commissioners decide not to undertake a review.

(5) In a case where regulation 12E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 12E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.

(7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.”.

**180.**—(1) Regulation 13 (appeals) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) A payment service provider may appeal from a decision by the Authority under regulation 11(7).”.

“(2) An appeal from a decision by the Authority is to the Financial Services and Markets Tribunal.”.

(3) Omit paragraphs (4) and (5).

**181.** For paragraph 2 of Schedule 2 (modifications in relation to appeals) substitute—

“2. Part 5 of the Value Added Tax Act 1994 (appeals)(a) is modified by omitting sections 83A to 84, 85A and 85B.”.

### **Income Tax (Purchased Life Annuities) Regulations 2008**

**182.** The Income Tax (Purchased Life Annuities) Regulations 2008(b) are amended as follows.

**183.**—(1) Regulation 20 (appeals against decisions of the Commissioners) is amended as follows.

(2) Omit paragraph (3).

(3) In paragraph (4)—

- (a) omit “and in regulations made under sections 56B to 56D of that Act”;
- (b) for “the Special Commissioners must, on appeal to them,” substitute “on an appeal that is notified to the tribunal, the tribunal must”; and
- (c) omit “they are”.

### **The Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008**

**184.** Omit paragraph 4 of the Schedule to the Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008(c).

### **Appeals (Excluded Decisions) Order 2008**

**185.** Omit article 2(c) of the Appeals (Excluded Decisions) Order 2008(d).

### **The Transfer of Tribunal Functions Order 2008**

**186.** In the Transfer of Tribunal Functions Order 2008(e), in paragraph 191 of Schedule 3, omit sub-paragraphs (2) to (7).

### **Revocations**

**187.** The following instruments are revoked—

- (a) The Pensions Increase (Compensation to Clerks to General Commissioners) Regulations 1973(f).
- (b) The Clerks to General Commissioners (Compensation) Regulations 1973(g).
- (c) The Value Added Tax Tribunals Rules 1986(h).
- (d) The Value Added Tax Tribunals Appeal Order 1986(i).
- (e) The Special Commissioners (Jurisdiction and Procedure) Regulations 1994(j).
- (f) The General Commissioners (Jurisdiction and Procedure) Regulations 1994(k).

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(a) 1994 c. 23; sections 83A to 83G were inserted by paragraph 220 of Schedule 1 to this Order and sections 85A and 85B by paragraph 223 of that Schedule.

- (b) S.I. 2008/562.
- (c) S.I. 2008/574.
- (d) S.I. 2008/2707.
- (e) S.I. 2008/2833.
- (f) S.I. 1973/1954.
- (g) S.I. 1973/900.
- (h) S.I. 1986/590.
- (i) S.I. 1986/2288.
- (j) S.I. 1994/1811.
- (k) S.I. 1994/1812.



- (g) The Value Added Tax Tribunals Appeals (Northern Ireland) Order 1994(a).
- (h) The Retirement Age of General Commissioners Order 1995(b).
- (i) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 1999(c).
- (j) The General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 1999(d).
- (k) The Special Commissioners (Amendment of the Taxes Management Act 1970) Regulations 1999(e).
- (l) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2000(f).
- (m) The General Commissioners of Income Tax (Costs) Regulations 2001(g).
- (n) Social Security Contributions (Decisions and Appeals) (Amendment) Regulations 2001(h).
- (o) The Referrals to the Special Commissioners Regulations 2001(i).
- (p) The General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2002(j).
- (q) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2003(k).
- (r) Stamp Duty Land Tax (Appeals) Regulations 2004(l).
- (s) The General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2005(m).
- (t) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2005(n).
- (u) The Taxes Management Act 1970 (Modifications to Schedule 3 for Pensions Scheme Appeals) Order 2005(o).
- (v) The General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2007(p).

## SCHEDULE 3

Article 6

### Transitional and Saving Provisions

#### General

1.—(1) In this Schedule—

- 
- (a) S.I. 1994/1978.
  - (b) S.I. 1995/3192.
  - (c) S.I. 1999/3292.
  - (d) S.I. 1999/3293.
  - (e) S.I. 1999/3294.
  - (f) S.I. 2000/288.
  - (g) S.I. 2001/1304.
  - (h) S.I. 2001/4023.
  - (i) S.I. 2001/4024.
  - (j) S.I. 2002/2976.
  - (k) S.I. 2003/968.
  - (l) S.I. 2004/1363.
  - (m) S.I. 2005/340.
  - (n) S.I. 2005/341.
  - (o) S.I. 2005/3457.
  - (p) S.I. 2007/3612.

“commencement date” means the date on which this Order comes into force;

“enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978<sup>(a)</sup>);

“HMRC” means Her Majesty’s Revenue and Customs;

“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

(2) For the purposes of this Schedule there are “current proceedings” if, before the commencement date—

- (a) any party has served notice on an existing tribunal for the purpose of beginning proceedings before the existing tribunal, and
- (b) the existing tribunal has not concluded proceedings arising by virtue of that notice.

### **Former VAT and duties tribunals matters (except VAT)**

2.—(1) This paragraph applies in relation to the following decisions—

- (a) any relevant decision which HMRC notify before the commencement date, unless—
  - (i) the period to require a review of the decision has expired before that date, or
  - (ii) a review of the decision has been required before that date;
- (b) any relevant review decision which HMRC notify before the commencement date unless—
  - (i) the period to serve notice of appeal against the decision on an existing tribunal has expired before that date, or
  - (ii) notice of appeal against the decision has been served on an existing tribunal before that date.

(2) On and after the commencement date, the following enactments continue to apply (subject to sub-paragraphs (3) and (4)) as they applied immediately before that date—

- (a) the review and appeal provisions,
- (b) rule 4(2) of the Value Added Tax Tribunal Rules 1986<sup>(b)</sup>, and
- (c) any other enactments that apply in relation to relevant decisions or relevant review decisions.

(3) Those enactments apply subject to Tribunal Procedure Rules.

(4) Any reference to an existing tribunal is to be substituted with a reference to the tribunal.

(5) Any time period which has started to run before the commencement date and has not expired will continue to apply.

(6) In this paragraph—

“relevant decision” means a decision to which a review and appeal provision applies (apart from a relevant review decision);

“relevant review decision” means a decision—

- (a) that is made on a review of a relevant decision, and
- (b) to which a review and appeal provision applies,

and includes a relevant decision that is treated as having been confirmed under a review and appeal provision.

“review and appeal provisions” means—

- (a) sections 14 to 16 of the Finance Act 1994<sup>(a)</sup>,

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(a) 1978 c. 30.  
(b) S.I. 1986/590.

- (b) sections 59 and 60 of the Finance Act 1994**(b)**,
- (c) sections 54 to 56 of the Finance Act 1996**(c)**,
- (d) paragraphs 121 to 123 of Schedule 6 to the Finance Act 2000**(d)**,
- (e) sections 40 to 42 of the Finance Act 2001**(e)**,
- (f) sections 33 to 37 of the Finance Act 2003**(f)**,
- (g) regulations 9 to 13 of the Export (Penalty) Regulations 2003**(g)**,
- (h) regulations 4 to 7 of the Control of Cash (Penalties) Regulations 2007**(h)**,
- (i) regulations 43 and 44 of the Money Laundering Regulations 2007**(i)**, and
- (j) regulations 12 and 13 of the Transfer of Funds (Information on the Payer) Regulations 2007**(j)**.

**3.**—(1) This paragraph applies in relation to a relevant decision if, before the commencement date—

- (a) HMRC have notified the relevant decision, and
- (b) a review of the decision has begun under a review and appeal provision (whether or not a relevant review decision has been notified).

(2) On and after the commencement date the following enactments continue to apply (subject to sub-paragraphs (3) and (4)), as they applied immediately before that date—

- (a) the review and appeal provisions,
- (b) rule 4(2) of the VAT Tribunal Rules 1986, and
- (c) any other enactments that apply in relation to relevant decisions or relevant review decisions.

(3) Those enactments apply subject to Tribunal Procedure Rules.

(4) Any reference to an existing tribunal is to be substituted with a reference to the tribunal.

(5) Any time period which has started to run before the commencement date and has not expired will continue to apply.

(6) On and after the commencement date, no notification offering or requiring a review may be given under any review and appeal provision or any other enactments that are applicable to the decision as they apply after that date.

(7) In this paragraph “review and appeal provision”, “relevant decision” and “relevant review decision” have the same meaning as in paragraph 2.

#### **Former VAT and duties tribunals matters: VAT**

**4.**—(1) This paragraph applies if, before the commencement date—

- (a) HMRC have notified a decision relating to a matter to which section 83 of the Value Added Tax Act 1994**(k)** applies, and

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- (a) 1994 c. 9. Section 14 was amended by section 20(4) of the Finance Act 1995 (c. 4), paragraph 1(2) of Schedule 6 to the Finance Act 1997 (c. 16), paragraph 10 of Schedule 2 to the Finance Act 1998 (c. 36), section 21(2) of, and paragraph 4(4) of Schedule 1 to, the Finance Act 2002 (c. 23) and section 4(4) of the Finance Act 2004 (c. 12). Section 16 was amended by section 16(3) of the Finance Act 1995, paragraph 11 of Schedule 2 to the Finance Act 1998 and paragraph 16 of Schedule 3 to the Finance Act 2001(c. 9).
  - (b) Section 59 was amended by paragraph 5 of Schedule 5 to the Finance Act 1995 and section 27(6) of the Finance Act 1997.
  - (c) 1996 c. 8. Section 54 was amended by section 151(3) of the Finance Act 2008 (c. 9) and S.I. 1996/1529.
  - (d) 2000 c. 17.
  - (e) 2001 c. 9.
  - (f) 2003 c. 14.
  - (g) S.I. 2003/3102.
  - (h) S.I. 2007/1509.
  - (i) S.I. 2007/2157.
  - (j) S.I. 2007/3298.
  - (k) 1994 c. 23. Section 83 has been amended by section 31(3) of, and paragraph 12 of Schedule 3 to, the Finance Act 1996 (c. 8), sections 45(2), 46(3) and 47(7) of the Finance Act 1997 (c. 16), paragraphs 3 and 6 of Schedule 2 to the Finance Act 1999 (c. 16), section 137 of the Finance Act 2000 (c. 17), sections 23(2) and 24(4)(b) of the Finance Act 2002 (c. 23), sections 17 and 18(2) of the Finance Act 2003 (c. 14), section 22(3) of, and paragraph 4 of Part 2 of Schedule 2 to, the

- (b) no party has served notice on a VAT and duties tribunal for the purpose of beginning proceedings before such a tribunal in relation to that decision.
- (2) On and after the commencement date, the following enactments continue to apply (subject to sub-paragraphs (3) and (4)) as they applied immediately before that date—
  - (a) the Value Added Tax Act 1994,
  - (b) rule 4(2) of the VAT Tribunal Rules 1986, and
  - (c) any other enactments that are applicable to the decision.
- (3) Those enactments apply subject to Tribunal Procedure Rules.
- (4) Any reference to an existing tribunal is to be substituted with a reference to the tribunal.
- (5) Any time period which has started to run before the commencement date and has not expired will continue to apply.

**Matters formerly heard by existing tribunals (except VAT and duties tribunals)**

- 5.—(1) This paragraph applies if, before the commencement date—
- (a) a notice of appeal has been given to HMRC; but
  - (b) no party has served notice on an existing tribunal for the purpose of beginning proceedings before the existing tribunal in relation to that appeal.
- (2) Where the date on which a review is required or offered falls on or before 31 March 2010, the period for HMRC to give notice of their conclusions for the purposes of the relevant provision is to be 90 days (but without prejudice to any power to agree to a different period).
- (3) In this paragraph—
- “review” means a review under—
- (a) section 49B or 49C of the Taxes Management Act 1970(a), or
  - (b) any other enactment which, as amended by this Order, contains provisions corresponding to section 49B or 49C for review to be required or offered;
- “relevant provision” means—
- (a) in the case of a review under section 49B or 49C of the Taxes Management Act 1970, section 49E(6) of that Act, or
  - (b) in the case of a review under any other enactment amended by this Order, the provision that corresponds to section 49E(6) of the Taxes Management Act 1970 in relation to that review.

**Current proceedings**

6. Any current proceedings are to continue on and after the commencement date as proceedings before the tribunal.

7.—(1) This paragraph applies to current proceedings that are continued before the tribunal by virtue of paragraph 6.

(2) Where a hearing before an existing tribunal (except for the Commissioners for the general purposes of the income tax) began before the commencement date but was not completed by that date, the tribunal must be comprised for the continuation of that hearing of the person or persons who began it.

(3) The tribunal may give any direction to ensure that proceedings are dealt with fairly and justly and, in particular, may—

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Finance Act 2004 (c. 12), section 5 of the Finance (No 2) Act 2005 (c. 22), section 21 of the Finance Act 2006 (c. 25), section 93(8) of the Finance Act 2007 (c.11), article 2 of S.I. 1997/2542, regulation 17 of S.I. 2001/3641, paragraph 1(1) of Schedule 2 to S.I. 2003/3075, paragraph 1 of Schedule 6 to S.I. 2007/2157, article 3 of S.I. 2008/1146 and by paragraph 220 of Schedule 1 to this Order.

(a) 1970 c. 9. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

- (a) apply any provision in procedural rules which applied to the proceedings before the commencement date; or
  - (b) disapply any provision of Tribunal Procedure Rules.
- (4) In sub-paragraph (3) “procedural rules” means any provision (whether called rules or not) regulating practice or procedure before an existing tribunal.
- (5) Any direction or order made or given in proceedings which is in force immediately before the commencement date remains in force on and after that date as if it were a direction or order of the tribunal relating to proceedings before that tribunal.
- (6) A time period which has started to run before the commencement date and which has not expired will continue to apply.
- (7) An order for costs may only be made if, and to the extent that, an order could have been made before the commencement date (on the assumption, in the case of costs actually incurred after that date, that they had been incurred before that date).

### **Cases to be remitted by courts**

**8.** Any case to be remitted by a court on or after the commencement date in relation to an existing tribunal shall be remitted to the tribunal.

### **Decisions of VAT and duties tribunals and courts: interest and payment**

**9.**—(1) This paragraph applies in relation to any decision of a VAT and duties tribunal made before the commencement date.

(2) On and after that date, the following provisions continue to apply as they applied immediately before that date—

- (a) section 84(8) of the Value Added Tax Act 1994 (VAT),
- (b) section 60(6) to (8) of the Finance Act 1994<sup>(a)</sup> (insurance premium tax),
- (c) paragraphs 8 and 10 of Schedule 6 to the Finance Act 1994 (air passenger duty),
- (d) section 56(3) to (5) of the Finance Act 1996<sup>(b)</sup> (landfill tax),
- (e) paragraph 123(4) to (6) of Schedule 6 to the Finance Act 2000<sup>(c)</sup> (climate change levy),
- (f) section 42(4) to (6) of the Finance Act 2001<sup>(d)</sup> (aggregates levy),
- (g) paragraph 14(4) of Schedule 3 to the Finance Act 2001 (excise and customs).

**10.**—(1) This paragraph applies if an appeal from a decision of a VAT and duties tribunal, or from a court, is made before the commencement date.

(2) Section 85B<sup>(e)</sup> of the Value Added Tax Act 1994 does not apply in relation to that decision.

### **Decisions of existing tribunals: rights of appeal, reviews and irregularities**

**11.**—(1) This paragraph applies to a decision of an existing tribunal if, immediately before the commencement date—

- (a) an appeal lies to a court from that decision,
- (b) an application may be or has been made to an existing tribunal seeking a review of that decision, or
- (c) the existing tribunal wishes to correct an irregularity.

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(a) 1994 c. 9.  
 (b) 1996 c. 8.  
 (c) 2000 c. 17.  
 (d) 2001 c. 9.  
 (e) Section 85B was inserted by paragraph 223 of Schedule 1 to this Order.

(2) Except as provided for in sub-paragraph (3), on and after the commencement date such rights of appeal shall lie from the decision as would lie from a decision of the First-tier Tribunal made on or after that date.

(3) Subject to the modifications specified in sub-paragraphs (4) and (5) the following enactments continue to apply for the purposes of a case to be stated, a review, or for correcting an irregularity in respect of any decision of the Commissioners for the general purposes of the income tax made before the commencement date, as if the amendments in this Order had not been made—

- (a) sections 56 and 58 of the Taxes Management Act 1970(a),
- (b) regulations 17 and 20 to 24 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(b), and
- (c) the General Commissioners of Income Tax (Costs) Regulations 2001(c).

(4) Section 56(6) of the Taxes Management Act 1970(d) is modified so that for “the Commissioners” there is substituted “the tribunal”.

(5) Section 58 of the Taxes Management Act 1970(e) is modified as follows—

- (a) omit subsection (2B); and
- (b) in subsection (2C) omit “or on an appeal under section 56A of this Act”.

(6) In article 4 of the Tribunals, Courts and Enforcement Act 2007 (Commencement No. 6 and Transitional Provisions) Order 2008(f)—

- (a) for “section 56 of the 1970 Act (statement of case for opinion of the High Court)” substitute “sections 56(3) and (11) and 58 of the 1970 Act (statement of case for opinion of the High Court) and regulations 17 and 20 to 24 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 (review of tribunal’s final determination, stated case procedures and correction of irregularities)”;
- (b) after “commenced” insert “, and the amendments to the 1970 Act and the revocation of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(g), the General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 1999(h), the General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2005(i) and the General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2007(j) (as they relate to the General Commissioners) in the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 had not been made”.

### Existing tribunals – staff

12. Staff appointed to the existing tribunals (except to the Commissioners for the general purposes of the income tax) before the commencement date are, on and after that date, to be treated, for the purpose of any enactment, as if they had been appointed by the Lord Chancellor under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff and services)(k).

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- (a) 1970 c. 9. Section 56 was amended by section 45(3) of the Finance (No. 2) Act 1975 (c. 45), paragraph 6 of Schedule 22 to the Finance Act 1984 (c. 43), section 156(3) of the Finance Act 1989 (c. 26) and S.I. 1994/1813. Section 58 was amended by sections 134(2) and 135 of, and Part 9 of Schedule 14 to, the Finance Act 1988 (c.39), Part 3(4) of Schedule 20 to the Finance Act 1999 (c. 16), paragraph 3 of Schedule 2 to the Capital Allowances Act 2001 (c. 2), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 375 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) and S.I. 1994/1813.
  - (b) S.I. 1994/1812. Regulation 20 was amended by S.I. 1999/3293 and 2005/340.
  - (c) S.I. 2001/1304.
  - (d) Section 56(6) was amended by S.I. 1994/1813.
  - (e) Section 58(2B) and (2C) were inserted by S.I. 1994/1813.
  - (f) S.I. 2008/2696.
  - (g) S.I. 1994/1812.
  - (h) S.I. 1999/3292.
  - (i) S.I. 2005/340.
  - (j) S.I. 2007/3612.
  - (k) 2007 c. 15.

**Transitional: general**

13.—(1) In so far as appropriate in consequence of this Order, a reference in an enactment, instrument or other document to an existing tribunal, or a member or official of an existing tribunal (however expressed) is to be taken to be a reference to the tribunal.

(2) Sub-paragraph (1) does not apply to any reference that is amended by Schedule 1 or 2.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order comes into force on 1st April 2009. It abolishes the Special Commissioners for the special purposes of the Income Tax Acts, the VAT and Duties Tribunal, the tribunal established under section 706 of the Income and Corporation Taxes Act 1988 (c. 1) and the tribunal established under section 704 of the Income Tax Act 2007 (c. 3), transfers their functions to the new tribunal system established under section 3 of the Tribunals, Courts and Enforcement Act 2007 (c. 15), and makes consequential changes including a large number of amendments to references to existing tribunals.

This Order provides for a review of appealable decisions made in the following regimes: income tax, corporation tax, capital gains tax, PAYE, National Insurance Contributions, statutory payments, child trust fund (tax appeals), student loans, inheritance tax, petroleum revenue tax, certain stamp duty penalties, stamp duty reserve tax, stamp duty land tax, VAT, customs duties, excise duties, insurance premium tax, landfill tax, aggregates levy, climate change levy and decisions associated with money laundering provisions.

Article 1 provides for citation and commencement.

Article 2 defines the existing tribunals to which the Order applies.

Article 3 and Schedules 1 and 2 provide for numerous amendments to existing primary and secondary legislation. The amendments transfer the functions of the existing tribunals, provide for a new optional review procedure before a matter is considered by a tribunal and make consequential changes. Schedule 1 relates to primary legislation and Schedule 2 relates to secondary legislation.

To a great extent the transfer is effected by the replacement of references to the existing tribunals with references to the tribunal to which the functions are being transferred. Schedules 1 and 2 delete provisions relating to the existing tribunals where the effects of those provisions are or will be provided for in the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”) or in Tribunal Procedure Rules made under that Act.

The new review provisions in Schedules 1 and 2 fall into three main categories.

First, amendments to the direct tax procedures have been made to the Taxes Management Act 1970 (c. 9). The provision for reviews is set out in new sections 49A to 49H of that Act. This model is also followed for the review provisions in other direct taxes such as petroleum revenue tax and stamp duty land tax.

Second, amendments to Part 1 of the Finance Act 1994 (c. 9) provide for an optional review of customs and excise decisions rather than the present mandatory review for most of these decisions. The present arrangements will remain for restoration decisions (under section 152(b) of the Customs and Excise Management Act 1979 (c. 2)).

Third, the amendments to the Value Added Tax Act 1994 (c. 23) include new review provisions for VAT. This model has also been applied to other indirect taxes and in relation to decisions associated with money laundering provisions.

Article 4 abolishes the existing tribunals defined in article 2 with the exception of the Commissioners for the general purposes of the income tax. The abolition of the General Commissioners is provided for by the 2007 Act and the Tribunals Courts and Enforcement Act 2007 (Commencement No. 6 and Transitional Provisions) Order 2008 (S.I. 2008/2696) from 1st April 2009.

Article 5 provides for the transfer of members of existing tribunals to the new tribunals (apart from the Commissioners for the general purposes of the income tax).



Article 6 and Schedule 3 make transitional and saving provisions for the treatment of cases which would previously have been dealt with by the existing tribunals from which the functions are transferred following the coming into force of this Order.

Any time limits which have already started will continue to run and all appeals made after 1st April 2009 will be to the new tribunals. Cases remitted by a court on or after 1st April 2009 will be remitted to the new tribunal.

Paragraph 13 of Schedule 3 is a general saving provision that references in any enactment (other than in Schedules 1 and 2 to this Order) to an existing tribunal or its members are to be taken as a reference to the tribunal.

Full Impact Assessments of the effect that this instrument will have on the costs of business and the voluntary sector are available at <http://www.hmrc.gov.uk/ria/index.htm> and at <http://www.financeandtaxtribunals.gov.uk/taxAppealsModernisation.htm> and are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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