



Finance Act 2003

2003 CHAPTER 14

PART 3

TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

Reviews

33 Right to review of certain decisions

- (1) If, in the case of any relevant tax or duty, the Commissioners give a person or his representative a notice informing him—
 - (a) that they have decided that the person has engaged in conduct by which he contravenes a relevant rule, and
 - (b) that the person is, in consequence, liable to a penalty under section 26, but
 - (c) that they do not propose to give a demand notice in respect of the penalty,the person or his representative may give a notice to the Commissioners requiring them to review the decision mentioned in paragraph (a).
- (2) Where the Commissioners give a demand notice to a person or his representative, the person or his representative may by notice require the Commissioners to review—
 - (a) their decision that the person is liable to a penalty under section 25 or 26, or
 - (b) their decision as to the amount of the liability.
- (3) Where the Commissioners give a notice under section 28 to a body corporate and to a relevant officer—
 - (a) subsection (2) does not apply to any demand notice given in respect of the liability of either of them to a penalty under this Part in respect of the conduct in question, but
 - (b) subsections (4) and (5) have effect instead in relation to any such demand notice.
- (4) Where the Commissioners give a demand notice to the relevant officer or his representative for a penalty which corresponds to the portion of the basic penalty

Status: This is the original version (as it was originally enacted).

specified in the notice under section 28, the relevant officer or his representative may by notice require the Commissioners to review—

- (a) their decision that the conduct of the body corporate referred to in section 28(1)(b) is, in whole or in part, attributable to the relevant officer's dishonesty, or
 - (b) their decision as to the portion of the basic penalty which the Commissioners are seeking to recover from the relevant officer or his representative.
- (5) Where the Commissioners give a demand notice to the body corporate or its representative for so much of the basic penalty as is not recoverable from the relevant officer by virtue of section 28(3), the body corporate or its representative may by notice require the Commissioners to review—
- (a) their decision that the body corporate is liable to a penalty under section 25, or
 - (b) their decision as to amount of the basic penalty as if it were the amount specified in the demand notice.
- (6) A person may not under this section require a review of a decision under section 35 (decision on review).

34 Time limit and right to further review

- (1) The Commissioners are not required under section 33 to review any decision unless the notice requiring the review is given before the end of the permitted period.
- (2) For the purposes of this section the “permitted period” is the period of 45 days beginning with the day on which the relevant notice is given.
- (3) For the purposes of subsection (2) the “relevant notice” is—
 - (a) in the case of a review by virtue of subsection (1) of section 33, the notice mentioned in that subsection; or
 - (b) in any other case, the demand notice in question.
- (4) Nothing in subsection (1) prevents the Commissioners from agreeing on request to review a decision in a case where the notice required by that subsection is not given within the permitted period.
- (5) A person may give notice under section 33 requiring a decision to be reviewed a second or subsequent time only if—
 - (a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider any particular facts or matters; and
 - (b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review of the decision, except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

35 Powers of Commissioners on a review

- (1) Where the Commissioners—
 - (a) are required in accordance with section 33 to review a decision, or
 - (b) agree to do so on such a request as is mentioned in section 34(4),
 the following provisions of this section apply.

- (2) On any such review, the Commissioners may—
 - (a) confirm the decision,
 - (b) withdraw the decision, or
 - (c) vary the decision.
- (3) Where the Commissioners withdraw or vary the decision, they may also take such further steps (if any) in consequence of the withdrawal or variation as they may consider appropriate.
- (4) If the Commissioners do not within the permitted period give notice of their determination on the review to the person who required the review or his representative, they shall be taken for the purposes of this Part to have confirmed the decision.
- (5) For the purposes of subsection (4), the “permitted period” is the period of 45 days beginning with the day on which the review—
 - (a) is required by the person or his representative in accordance with section 33, or
 - (b) is agreed to by the Commissioners as mentioned in section 34(4).