

## SCHEDULE 2

Article 3

### Consequential Amendments and Supplemental Provisions – Secondary Legislation

#### Capital Gains Tax Regulations 1967

1. The Capital Gains Tax Regulations 1967(1) 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(2) (deficiency claims: supplemental provision) 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”.

### **Oil Taxation (Gas Banking Scheme) Regulations 1982**

8.—(1) Regulation 7 of the Oil Taxation (Gas Banking Scheme) Regulations 1982(3) (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(4) 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(5) 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(6) 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—

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(2) [S.I. 1978/1159](#).

(3) [S.I. 1982/92](#).

(4) [1975 c. 22](#). Paragraphs 14A to 14I were inserted by paragraph 75 of Schedule 1 to this Order.

(5) [S.I. 1982/1236](#).

(6) [S.I. 1986/1711](#).

““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)(7) is amended as follows.

(2) For paragraph (2) substitute—

“(2) Sections 49D, 49G and 49H of the Taxes Management Act 1970(8) 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.

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(7) Regulation 8 was amended by regulations 1 to 3 of *S.I. 1993/3110* and by *S.I. 1997/2430*.

(8) *1970 c. 9*. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

(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.**

**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)(9) 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—

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(9) The table has been amended. Relevant amendments were made by regulation 7(11) of [S.I. 1993/3110](#).

#### **“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).
- (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)(**10**)—

(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)—

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(10) Sections 100 to 100D (as modified) were substituted for section 100 by regulations 1, 2, and 7 of [S.I. 1993/3110](#).



- (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;”;
    - “tribunal” is to be read in accordance with section 47C;”;
  - (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(11) (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(12) are amended as follows.
- 24.** In regulation 4(4) (approval of a company) omit “to the Special Commissioners”.

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(11) S.I. 1986/2211.

(12) S.I. 1995/1979.

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(13) 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”.
- 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<sup>(14)</sup> 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<sup>(15)</sup> are amended as follows.

**39.**—(1) Regulation 4(1) (applicable rate of interest payable to the Commissioners etc)<sup>(16)</sup> 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,”.
- (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”.

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<sup>(14)</sup> S.I. 1997/534.

<sup>(15)</sup> 1998/1461.

<sup>(16)</sup> 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.

- (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(17) 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(18) 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(19) are amended as follows.
- 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).”.

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(17) [S.I. 1998/1506](#) as amended by Schedule 6 to [S.I. 1999/671](#).

(18) [S.I. 1998/1870](#).

(19) [S.I. 1998/3175](#).

### **Social Security Contributions (Transfer of Functions etc) (Northern Ireland) Order 1999**

**50.** The Social Security Contributions (Transfer of Functions etc) (Northern Ireland) Order 1999<sup>(20)</sup> 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<sup>(21)</sup> 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”;

(b) for “Special Commissioners must on appeal to them” substitute “tribunal, on an appeal notified to it, shall”; and

(c) omit “they are”.

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<sup>(20)</sup> S.I. 1999/671.

<sup>(21)</sup> S.I. 1999/881.

## **Social Security Contributions (Decisions and Appeals) Regulations 1999**

**59.**—(1) The Social Security Contributions (Decisions and Appeals) Regulations 1999<sup>(22)</sup> are amended as follows.

**60.** In regulation 3(3) (decisions – general)<sup>(23)</sup> 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<sup>(24)</sup> 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<sup>(25)</sup>.

**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”.

**67.** For regulation 12 substitute—

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<sup>(22)</sup> [S.I. 1999/1027](#).

<sup>(23)</sup> Regulation 3 has been amended by regulation 3(1) and (2)(a) of [S.I. 2002/3120](#).

<sup>(24)</sup> [1970 c. 9](#). Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

<sup>(25)</sup> Regulation 8 was amended and regulation 8A was inserted by regulations 2 to 4 of [S.I. 2001/4023](#).

### **“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<sup>(26)</sup> 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<sup>(27)</sup> (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<sup>(28)</sup> 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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<sup>(26)</sup> S.I. 1999/2537.

<sup>(27)</sup> S.I. 1999/1748.

<sup>(28)</sup> S.I. 2000/944.

## **Social Security (Contributions) Regulations 2001**

74. The Social Security (Contributions) Regulations 2001(29) are amended as follows.

75.—(1) For regulation 90Q(1)(30) 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)(31) 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(32) 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(33) 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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(29) [S.I. 2001/1004](#).

(30) Regulation 90Q was inserted by regulations 2 and 23 of [S.I. 2004/770](#).

(31) Paragraphs 29A to 29L were inserted by regulation 2 of [S.I. 2007/2068](#).

(32) [S.I. 2001/3698](#).

(33) [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(34) (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(35) 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 (36) (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(37) 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(38) 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

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(34) [S.I. 2002/2832](#).

(35) [S.I. 2002/2926](#). Regulations 3 and 12 were amended by paragraphs 193 and 202 of Schedule 1 to [S.I. 2008/2683](#).

(36) [S.I. 2003/96](#). Regulation 16 was amended by articles 2 and 5 of [S.I. 2008/383](#).

(37) [S.I. 2003/1382](#).

(38) [S.I. 2003/1417](#).

General/Special Commissioner” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

### **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(**39**) 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(**40**) 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)(**41**) 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.

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(39) [S.I. 2003/2495](#).

(40) [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](#).

(41) Regulations 72A to 72D were inserted by regulations 2 and 4 of [S.I. 2004/851](#).

- (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—

“(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)(**42**) 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)(**43**) 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)(**44**) 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.

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(42) Regulation 72G was inserted by regulations 2 and 7 of [S.I. 2008/782](#).

(43) Regulation 81A was inserted by regulations 2 and 6 of [S.I. 2004/851](#).

(44) Regulations 97A to 97L were inserted by regulation 2 of [S.I. 2007/2069](#).

**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”.

**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<sup>(45)</sup> 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<sup>(46)</sup> 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;

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<sup>(45)</sup> S.I. 2003/2837.

<sup>(46)</sup> 2003 c. 14. Paragraphs 36A to 36I were inserted by paragraph 388 of Schedule 1 to this Order.

- (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).”.

(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(47) 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

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(47) [S.I. 2003/3102](#).

- (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.

**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(48) (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(49) are amended as follows.

**129.**—(1) Regulation 10 (procedure for Board’s approval) is amended as follows.

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(48) S.I. 2004/1450.

(49) S.I. 2004/2199.



- (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<sup>(50)</sup> (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<sup>(51)</sup> 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—
    - “(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<sup>(52)</sup>.

#### **Child Trust Funds (Appeals) Regulations 2005**

**136.** Omit regulation 1(2) of the Child Trust Funds (Appeals) Regulations 2005<sup>(53)</sup>.

#### **Income Tax (Construction Industry Scheme) Regulations 2005**

**137.** The Income Tax (Construction Industry Scheme) Regulations 2005<sup>(54)</sup> 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—

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<sup>(50)</sup> S.I. 2004/2622.

<sup>(51)</sup> S.I. 2005/191.

<sup>(52)</sup> S.I. 2005/907.

<sup>(53)</sup> S.I. 2005/990.

<sup>(54)</sup> S.I. 2005/2045.

““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(**55**) 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.”.

**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(**56**) omit “VAT and duties”.

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(55) [S.I. 2005/3448](#).

(56) [S.I. 2005/3472](#).

## **Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006**

**147.** The Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006<sup>(57)</sup> 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)<sup>(58)</sup> 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”.

**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).

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<sup>(57)</sup> [S.I. 2006/131](#).

<sup>(58)</sup> Regulation 14A was inserted by regulations 2 and 9 of [S.I. 2006/3261](#).

(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(**59**) 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(**60**) 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)(**61**) 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.

- (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.

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(59) [S.I. 2006/570](#).

(60) [S.I. 2006/964](#) as amended by regulations 2 and 5 of [S.I. 2008/705](#).

(61) Regulations 69T and 69Z1 to 69Z41 were inserted by regulations 2 and 5 of [S.I. 2008/705](#).

- (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(**62**) (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(**63**) 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—

#### **“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.

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(62) [S.I. 2007/285](#).

(63) [S.I. 2007/1509](#).

(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)(**64**) 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(**65**) 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”.

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(64) 1994 c. 23.

(65) S.I. 2007/2157.



**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.

(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)(**66**), 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.

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(66) 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.

(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
- (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)(**67**) is modified by omitting sections 83A to 84, 85A and 85B.”.

### **Transfer of Funds (Information on the Payer) Regulations 2007**

**176.** The Transfer of Funds (Information on the Payer) Regulations 2007(**68**) 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)(**69**), 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.

(67) 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.

(68) S.I. 2007/3298.

(69) 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.

(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.

#### **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)(**70**) 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(**71**) 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”.

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(70) 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.

(71) S.I. 2008/562.

**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(72).

**Appeals (Excluded Decisions) Order 2008**

**185.** Omit article 2(c) of the Appeals (Excluded Decisions) Order 2008(73).

**The Transfer of Tribunal Functions Order 2008**

**186.** In the Transfer of Tribunal Functions Order 2008(74), 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(75).
- (b) The Clerks to General Commissioners (Compensation) Regulations 1973(76).
- (c) The Value Added Tax Tribunals Rules 1986(77).
- (d) The Value Added Tax Tribunals Appeal Order 1986(78).
- (e) The Special Commissioners (Jurisdiction and Procedure) Regulations 1994(79).
- (f) The General Commissioners (Jurisdiction and Procedure) Regulations 1994(80).
- (g) The Value Added Tax Tribunals Appeals (Northern Ireland) Order 1994(81).
- (h) The Retirement Age of General Commissioners Order 1995(82).
- (i) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 1999(83).
- (j) The General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 1999(84).
- (k) The Special Commissioners (Amendment of the Taxes Management Act 1970) Regulations 1999(85).
- (l) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2000(86).

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(72) S.I. 2008/574.

(73) S.I. 2008/2707.

(74) S.I. 2008/2833.

(75) S.I. 1973/1954.

(76) S.I. 1973/900.

(77) S.I. 1986/590.

(78) S.I. 1986/2288.

(79) S.I. 1994/1811.

(80) S.I. 1994/1812.

(81) S.I. 1994/1978.

(82) S.I. 1995/3192.

(83) S.I. 1999/3292.

(84) S.I. 1999/3293.

(85) S.I. 1999/3294.

(86) S.I. 2000/288.



- (m) The General Commissioners of Income Tax (Costs) Regulations 2001**(87)**.
- (n) Social Security Contributions (Decisions and Appeals) (Amendment) Regulations 2001**(88)**.
- (o) The Referrals to the Special Commissioners Regulations 2001**(89)**.
- (p) The General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2002**(90)**.
- (q) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2003**(91)**.
- (r) Stamp Duty Land Tax (Appeals) Regulations 2004**(92)**.
- (s) The General Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2005**(93)**.
- (t) The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2005**(94)**.
- (u) The Taxes Management Act 1970 (Modifications to Schedule 3 for Pensions Scheme Appeals) Order 2005**(95)**.
- (v) The General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2007**(96)**.

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**(87)** S.I. 2001/1304.  
**(88)** S.I. 2001/4023.  
**(89)** S.I. 2001/4024.  
**(90)** S.I. 2002/2976.  
**(91)** S.I. 2003/968.  
**(92)** S.I. 2004/1363.  
**(93)** S.I. 2005/340.  
**(94)** S.I. 2005/341.  
**(95)** S.I. 2005/3457.  
**(96)** S.I. 2007/3612.