



# Finance Act 2003

## 2003 CHAPTER 14

### PART 3

#### TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

#### *[<sup>F1</sup>Appeals and reviews]*

### 33 [<sup>F1</sup>Right to appeal against certain decisions]

- (1) If, in the case of any relevant tax or duty, [<sup>F2</sup>HMRC] give a person or his representative a notice informing him—
  - (a) that they have decided that the person has engaged in conduct by which he contravenes a relevant rule, and
  - (b) that the person is, in consequence, liable to a penalty under section 26, but
  - (c) that they do not propose to give a demand notice in respect of the penalty,the person or his representative may [<sup>F3</sup>make an appeal to an appeal tribunal in respect of] the decision mentioned in paragraph (a).
- (2) Where [<sup>F4</sup>HMRC] give a demand notice to a person or his representative, the person or his representative may [<sup>F5</sup>make an appeal to an appeal tribunal in respect of] —
  - (a) their decision that the person is liable to a penalty under section 25 or 26, or
  - (b) their decision as to the amount of the liability.
- (3) Where [<sup>F6</sup>HMRC] give a notice under section 28 to a body corporate and to a relevant officer—
  - (a) subsection (2) does not apply to any demand notice given in respect of the liability of either of them to a penalty under this Part in respect of the conduct in question, but
  - (b) subsections (4) and (5) have effect instead in relation to any such demand notice.
- (4) Where [<sup>F7</sup>HMRC] give a demand notice to the relevant officer or his representative for a penalty which corresponds to the portion of the basic penalty specified in the notice

**Changes to legislation:** Finance Act 2003, Section 33 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

under section 28, the relevant officer or his representative may [<sup>F8</sup>make an appeal to an appeal tribunal in respect of] —

- (a) their decision that the conduct of the body corporate referred to in section 28(1)(b) is, in whole or in part, attributable to the relevant officer's dishonesty, or
- (b) their decision as to the portion of the basic penalty which the [<sup>F9</sup>HMRC] are seeking to recover from the relevant officer or his representative.

(5) Where [<sup>F10</sup>HMRC] give a demand notice to the body corporate or its representative for so much of the basic penalty as is not recoverable from the relevant officer by virtue of section 28(3), the body corporate or its representative may [<sup>F11</sup>make an appeal to an appeal tribunal in respect of] —

- (a) their decision that the body corporate is liable to a penalty under section 25, or
- (b) their decision as to amount of the basic penalty as if it were the amount specified in the demand notice.

[<sup>F12</sup>(6) The powers of an appeal tribunal on an appeal under this section include—

- (a) power to quash or vary a decision; and
- (b) power to substitute the tribunal's own decision for any decision so quashed.

(7) On an appeal under this section—

- (a) the burden of proof as to the matters mentioned in section 25(1) or 26(1) lies on HMRC; but
- (b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.]

#### Textual Amendments

- F1** S. 33 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(2)** (with Sch. 3 paras. 2-4)
- F2** Word in s. 33(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(3)(a)** (with Sch. 3 paras. 2-4)
- F3** Words in s. 33(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(3)(b)** (with Sch. 3 paras. 2-4)
- F4** Word in s. 33(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(4)(a)** (with Sch. 3 paras. 2-4)
- F5** Words in s. 33(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(4)(b)** (with Sch. 3 paras. 2-4)
- F6** Word in s. 33(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(5)** (with Sch. 3 paras. 2-4)
- F7** Word in s. 33(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(6)(a)** (with Sch. 3 paras. 2-4)
- F8** Words in s. 33(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(6)(b)** (with Sch. 3 paras. 2-4)
- F9** Word in s. 33(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(6)(c)** (with Sch. 3 paras. 2-4)
- F10** Word in s. 33(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(7)(a)** (with Sch. 3 paras. 2-4)
- F11** Words in s. 33(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(7)(b)** (with Sch. 3 paras. 2-4)
- F12** S. 33(6)(7) substituted for s. 33(6) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 363(8)** (with Sch. 3 paras. 2-4)

---

**Changes to legislation:** Finance Act 2003, Section 33 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

**Modifications etc. (not altering text)**

**C1** Ss. 29-41 applied (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **s. 102(2)**

**Commencement Information**

**I1** S. 33 in force at 27.11.2003 by [S.I. 2003/2985](#), **art. 2**

**Changes to legislation:**

Finance Act 2003, Section 33 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 57(3) inserted by [2011 c. 11 Sch. 22 para. 4](#)
- s. 87(3)(a)(ia) inserted by [S.I. 2003/2760 Sch. para. 3\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting S.I. is revoked and superseded by [S.I. 2003/2816](#))
- Sch. 12 para. 3(2)(aa) inserted by [2007 asp 3 Sch. 5 para. 32](#) (This effect was superseded by the repeal of Sch. 12 para. 3 by Finance Act 2008 (c. 9), s. 129(4), Sch. 43 para. 16)
- Sch. 12 para. 1A inserted by [2007 c. 15 Sch. 13 para. 147\(2\)](#) (The amending provision was repealed before coming into force.)
- Sch. 12 para. 1A omitted by [2008 c. 9 Sch. 43 para. 9](#) (The amending provision was repealed before coming into force.)