

SCHEDULES

SCHEDULE 8

DIGITAL SERVICES TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 9

PENALTIES

Procedure on appeal against penalty

- 59 (1) Part 8 of this Schedule (apart from paragraphs 33, 45 to 47, and 49) applies in relation to an appeal under paragraph 58 as it applies in relation to an appeal under paragraph 33.
- (2) On an appeal under paragraph 58, payment of the penalty is postponed pending determination of the appeal.
- (3) On an appeal under paragraph 58(a) that is notified to the tribunal, the tribunal may confirm or cancel the decision.
- (4) On an appeal under paragraph 58(b) that is notified to the tribunal, the tribunal may—
- (a) confirm the decision, or
 - (b) substitute for the decision another decision that HMRC had power to make.
- (5) If the tribunal substitutes its decision for HMRC's, the tribunal may rely on paragraph 57—
- (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
 - (b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of that paragraph was flawed.
- (6) In sub-paragraph (5)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (7) On determination of an appeal under paragraph 58, where a penalty is payable it is to be paid before the end of 30 days beginning with the day on which the determination was issued.