

SCHEDULE 1

Article 3

Consequential Amendments and Supplemental Provisions – Primary Legislation

Stamp Act 1891

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

Commencement Information

- I1** Sch. 1 para. 1 in force at 1.4.2009, see art. 1(2)

2. In section 13(4) (appeal against Commissioners’ decision on adjudication)(2) for “Special Commissioners” substitute “First-tier Tribunal”.

Commencement Information

- I2** Sch. 1 para. 2 in force at 1.4.2009, see art. 1(2)

- 3.—(1) Section 13A(3) (appeal to the Special Commissioners) is amended as follows.
 - (2) In the heading for “Special Commissioners” substitute “First-tier Tribunal”.
 - (3) Omit subsections (3) and (4).
 - (4) In subsection (5)—
 - (a) for “Special Commissioners” substitute “First-tier Tribunal”;
 - (b) in paragraphs (a) and (b) omit “to them”; and
 - (c) in paragraphs (c) and (d)—
 - (i) omit “to them”; and
 - (ii) for “they consider” substitute “the tribunal considers”.
 - (5) Omit subsection (6).
 - (6) For subsection (7) substitute—

“(7) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under subsection (5), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(7A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under subsection (7) as it applies to the right of appeal under section 11(2) of that Act.”.
 - (7) In subsection (8)—
 - (a) for “court” substitute “Upper Tribunal”; and
 - (b) for “Special Commissioners” substitute “First-tier Tribunal”.

(1) (54 & 55 Vict. Chapter 39).

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I3 Sch. 1 para. 3 in force at 1.4.2009, see **art. 1(2)**

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

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

Commencement Information

I4 Sch. 1 para. 4 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I1 Sch. 1 para. 1 in force at 1.4.2009, see **art. 1(2)**

I2 Sch. 1 para. 2 in force at 1.4.2009, see **art. 1(2)**

I3 Sch. 1 para. 3 in force at 1.4.2009, see **art. 1(2)**

I4 Sch. 1 para. 4 in force at 1.4.2009, see **art. 1(2)**

Taxes Management Act 1970

5. The Taxes Management Act 1970(4) is amended as follows.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.4.2009, see **art. 1(2)**

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

Commencement Information

I6 Sch. 1 para. 6 in force at 1.4.2009, see **art. 1(2)**

7. In section 12B(4) (records to be kept for purposes of returns)(6) for “Commissioners” substitute “tribunal”.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.4.2009, see **art. 1(2)**

8.—(1) Section 19A (power to call for documents for purposes of certain enquiries)(7) is amended as follows.

(4) 1970 c. 9.

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

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

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

- (2) In subsection (5) for “Special Commissioners” substitute “tribunal”.
- (3) In subsection (9)—
 - (a) for “Commissioners” substitute “tribunal”; and
 - (b) in paragraphs (a) and (b) omit “to them”.
- (4) In subsection (10) for “Commissioners confirm” substitute “tribunal confirms”.
- (5) In subsection (11)—
 - (a) for “Commissioners” substitute “tribunal”; and
 - (b) for “(notwithstanding any provision having effect by virtue of section 56B of this Act)” substitute “(notwithstanding the provisions of sections 11 and 13 of the TCEA 2007).”.

Commencement Information

18 Sch. 1 para. 8 in force at 1.4.2009, see **art. 1(2)**

- 9.**—(1) Section 20 (power to call for documents of taxpayer and others)(**8**) is amended as follows.
- (2) In subsection (7)—
 - (a) in paragraph (a) for “a General or Special Commissioner” substitute “the tribunal”; and
 - (b) in paragraph (b) for “Commissioner is to give his consent” substitute “tribunal is to give consent”.
 - (3) In subsection (7AB)—
 - (a) for “A Commissioner who has given his consent” substitute “A judge or other member of the tribunal involved in giving consent”; and
 - (b) for “the Commissioner” substitute “the judge or other member”.
 - (4) In subsection (7AC) for “Commissioner gave his consent” substitute “tribunal gave consent”.
 - (5) In subsection (8A)—
 - (a) for “a Special Commissioner gives his consent” substitute “the tribunal gives consent”; and
 - (b) for “Special Commissioner is” substitute “tribunal is”.
 - (6) In subsection (8B) for “Special Commissioners, who” substitute “tribunal, which”.
 - (7) In subsection (8G)(b) for “Commissioner giving the required consent” substitute “tribunal”.
 - (8) In subsection (8H)—
 - (a) for “A General or Special Commissioner” substitute “The tribunal”; and
 - (b) omit “he is”.

Commencement Information

19 Sch. 1 para. 9 in force at 1.4.2009, see **art. 1(2)**

- 10.**—(1) Section 20B (restrictions on powers under ss 20 and 20A)(**9**) is amended as follows.

(8) Section 20 was substituted by Schedule 6 to the [Finance Act 1976 \(c. 40\)](#). Subsections (7AB), (7AC) and (8G) and (8H) were inserted by section 255 of the Finance Act 1994. Subsections (8A) and (8B) were inserted by section 126(3) and (6) of the [Finance Act 1988 \(c. 39\)](#).

(9) Section 20B was inserted by Schedule 6 to the Finance Act 1976. Subsection (1B) was inserted by section 144 of the [Finance Act 1989 \(c. 26\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (2) In subsection (1B)—
 - (a) for “a General or Special Commissioner” substitute “the tribunal”; and
 - (b) for “Commissioner is” substitute “tribunal is”.
- (3) In subsection (6)—
 - (a) in paragraph (a) for “Commissioner giving consent” substitute “tribunal”;
 - (b) in paragraph (b) for “a General or Special Commissioner” substitute “the tribunal”; and
 - (c) in the words after paragraph (b) for “Commissioner” substitute “tribunal”.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.4.2009, see **art. 1(2)**

11. In section 20BB(2)(a) (falsification etc of documents)(**10**) for “a General or Special Commissioner” substitute “the tribunal”.

Commencement Information

I11 Sch. 1 para. 11 in force at 1.4.2009, see **art. 1(2)**

- 12.**—(1) Section 28ZA(**11**) (referral of questions during enquiry) is amended as follows.
- (2) In subsection (1) for “Special Commissioners for their” substitute “tribunal for its”.
 - (3) In subsection (2)—
 - (a) omit paragraph (b); and
 - (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.
 - (4) Omit subsection (3).

Commencement Information

I12 Sch. 1 para. 12 in force at 1.4.2009, see **art. 1(2)**

- 13.**—(1) Section 28ZB is amended as follows.
- (2) In subsection (1) omit “by notice in accordance with this section”.
 - (3) Omit subsection (2).

Commencement Information

I13 Sch. 1 para. 13 in force at 1.4.2009, see **art. 1(2)**

14. Omit section 28ZC.

(10) Section 20BB was inserted by section 145 of the Finance Act 1989.

(11) Sections 28ZA to 28ZE were inserted by section 88 of, and paragraph 6 of and Schedule 29 to, the Finance Act 2001(c. 9).

Commencement Information

I14 Sch. 1 para. 14 in force at 1.4.2009, see **art. 1(2)**

15. In section 28ZD(3)(a) (effect of referral on enquiry) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I15 Sch. 1 para. 15 in force at 1.4.2009, see **art. 1(2)**

16. In section 28ZE(1) (effect of determination) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I16 Sch. 1 para. 16 in force at 1.4.2009, see **art. 1(2)**

17.—(1) Section 28A(12) (completion of enquiry into personal or trustee return) is amended as follows.

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

(3) For subsection (5) substitute—

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

(4) In subsection (6)—

(a) for “Commissioners hearing the application” substitute “tribunal”; and

(b) omit “they are”.

Commencement Information

I17 Sch. 1 para. 17 in force at 1.4.2009, see **art. 1(2)**

18.—(1) Section 28B (completion of enquiry into partnership return) is amended as follows.

(2) In subsection (5) for “Commissioners” substitute “tribunal”.

(3) For subsection (6) substitute—

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

(4) In subsection (7)—

(a) for “Commissioners hearing the application” substitute “tribunal”; and

(b) omit “they are”.

(12) Sections 28A and 28B were substituted by paragraph 8 of Schedule 29 to the [Finance Act 2001 \(c. 9\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I18 Sch. 1 para. 18 in force at 1.4.2009, see **art. 1(2)**

19. In section 31(2) (appeals: right of appeal)(**13**)—

- (a) at the beginning insert “If”;
- (b) after “self-assessment” insert “is”; and
- (c) for “shall not be heard and determined” substitute “none of the steps mentioned in section 49A(2)(a) to (c) may be taken in relation to the appeal”.

Commencement Information

I19 Sch. 1 para. 19 in force at 1.4.2009, see **art. 1(2)**

20. Omit section 31A(6).

Commencement Information

I20 Sch. 1 para. 20 in force at 1.4.2009, see **art. 1(2)**

21. Omit sections 31B to 31D.

Commencement Information

I21 Sch. 1 para. 21 in force at 1.4.2009, see **art. 1(2)**

22. For section 32(2) (double assessment) substitute—

- “(2) An appeal may be brought against the refusal of a claim under this section.
- (3) Notice of appeal under subsection (2) must be given—
 - (a) in writing;
 - (b) within 30 days after the day on which notice of the refusal is given;
 - (c) to the officer of Revenue and Customs by whom that notice was given.”.

Commencement Information

I22 Sch. 1 para. 22 in force at 1.4.2009, see **art. 1(2)**

23. For section 33(4) (error or mistake)(**14**) substitute —

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

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

(13) Sections 31 to 31D were substituted for section 31 by paragraph 11 of Schedule 29 to the Finance Act 2001.

(14) Section 33(4) was substituted by [S.I. 1994/1813](#).

Commencement Information

I23 Sch. 1 para. 23 in force at 1.4.2009, see [art. 1\(2\)](#)

- 24.**—(1) Section 33A (error or mistake in partnership return)(**15**) is amended as follows.
- (2) In subsection (7)—
- (a) for “Special Commissioners” substitute “tribunal”; and
 - (b) omit “hear and”.
- (3) In subsection (8)—
- (a) for “Special Commissioners” substitute “tribunal”; and
 - (b) for “any provision having effect by virtue of section 56B of this Act” substitute “the provisions of sections 11 and 13 of the TCEA 2007.”.

Commencement Information

I24 Sch. 1 para. 24 in force at 1.4.2009, see [art. 1\(2\)](#)

- 25.** Omit sections 44 to 46C.

Commencement Information

I25 Sch. 1 para. 25 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I26 Sch. 1 para. 26 in force at 1.4.2009, see [art. 1\(2\)](#)

- 27.** Before section 48 insert—

“47C Meaning of tribunal

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

Commencement Information

I27 Sch. 1 para. 27 in force at 1.4.2009, see [art. 1\(2\)](#)

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

“48 Application to appeals and other proceedings

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (a) “appeal” means any appeal under the Taxes Acts;
 - (b) a reference to notice of appeal given, or to be given, to HMRC is a reference to notice of appeal given, or to be given, under any provision of the Taxes Acts.
- (2) In the case of—
- (a) an appeal other than an appeal against an assessment, the following provisions of this Part of this Act shall, in their application to the appeal, have effect subject to any necessary modifications, including the omission of section 56 below;
 - (b) any proceedings other than an appeal which, under the Taxes Acts, are to be subject to the relevant provisions of this Part of this Act, the relevant provisions—
 - (i) shall apply to the proceedings as they apply to appeals;
 - (ii) but shall, in that application, have effect subject to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56 below.
- (3) In subsection (2), a reference to the relevant provisions of this Part of this Act is a reference to the following provisions of this Part, except sections 49A to 49I.”.

Commencement Information

I28 Sch. 1 para. 28 in force at 1.4.2009, see **art. 1(2)**

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

“Late notice of appeal

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

Commencement Information

I29 Sch. 1 para. 29 in force at 1.4.2009, see **art. 1(2)**

30. After section 49 insert—

“49A Appeal: HMRC review or determination by tribunal

- (1) This section applies if notice of appeal has been given to HMRC.
- (2) In such a case—
 - (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 49B),
 - (b) HMRC may notify the appellant of an offer to review the matter in question (see section 49C), or
 - (c) the appellant may notify the appeal to the tribunal (see section 49D).
- (3) See sections 49G and 49H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.
- (4) This section does not prevent the matter in question from being dealt with in accordance with section 54 (settling appeals by agreement).

49B Appellant requires review by HMRC

- (1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (2) HMRC must, within the relevant period, notify the appellant of HMRC’s view of the matter in question.
- (3) HMRC must review the matter in question in accordance with section 49E.
- (4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—
 - (a) the appellant has already given a notification under this section in relation to the matter in question,
 - (b) HMRC have given a notification under section 49C in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal under section 49D.
- (5) In this section “relevant period” means—
 - (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
 - (b) such longer period as is reasonable.

49C HMRC offer review

- (1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC’s view of the matter in question.
- (3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 49E.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

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

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

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

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

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

49D Notifying appeal to the tribunal

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

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

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

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

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

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

49E Nature of review etc

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

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

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

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

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

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

- (a) upheld,

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

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

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

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

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

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

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

49F Effect of conclusions of review

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

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

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

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

49G Notifying appeal to tribunal after review concluded

(1) This section applies if—

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

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

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

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (i) begins with the day following the last day of the period specified in section 49E(6), and
- (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 49E(9).

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

- (1) This section applies if—
 - (a) HMRC have offered to review the matter in question (see section 49C), and
 - (b) the appellant has not accepted the offer.
- (2) The appellant may notify the appeal to the tribunal within the acceptance period.
- (3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) In this section “acceptance period” has the same meaning as in section 49C.

49I Interpretation of sections 49A to 49H

- (1) In sections 49A to 49H—
 - (a) “matter in question” means the matter to which an appeal relates;
 - (b) a reference to a notification is a reference to a notification in writing.
- (2) In sections 49A to 49H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
 - (a) notification of HMRC’s view under section 49B(2);
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under section 49C;
 - (c) notification of the conclusions of a review under section 49E(6); and
 - (d) notification of the conclusions of a review under section 49E(9).
- (3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”

Commencement Information

I30 Sch. 1 para. 30 in force at 1.4.2009, see **art. 1(2)**

- 31.**—(1) Section 50 (procedure)(**16**) is amended as follows.
- (2) In subsection (6) for the words before paragraph (a) substitute—
- “(6) If, on an appeal notified to the tribunal, the tribunal decides—”.

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

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

(4) In subsection (7A)—

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

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

(5) In subsection (8)—

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

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

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

(6) After subsection (9) add—

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

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

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

(b) Tribunal Procedure Rules, and

(c) the Taxes Acts.”.

Commencement Information

I31 Sch. 1 para. 31 in force at 1.4.2009, see **art. 1(2)**

32. Omit section 53.

Commencement Information

I32 Sch. 1 para. 32 in force at 1.4.2009, see **art. 1(2)**

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

Commencement Information

I33 Sch. 1 para. 33 in force at 1.4.2009, see **art. 1(2)**

34.—(1) Section 55 (recovery of tax not postponed)(**17**) is amended as follows.

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

(3) For subsection (3) substitute—

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

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

- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.

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

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

(5) For subsection (4) substitute—

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

- (a) there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, and
 - (b) the parties cannot agree on a revised determination,
- the party mentioned in paragraph (a) may, at any time before the determination of the appeal, apply to the tribunal for a revised determination of that amount.”.

(6) For subsection (5) substitute—

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

(7) In subsection (6) omit “to the Commissioners, having regard to the representations made and any evidence adduced.”

(8) For subsection (6A) substitute—

“(6A) Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007, the decision of the tribunal shall be final and conclusive.”.

(9) For subsection (7) substitute—

“(7) If the appellant and HMRC reach an agreement as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the agreement shall not have effect unless—

- (a) the agreement is in writing, or
- (b) the fact that the agreement has been reached, and the terms of the agreement, are confirmed by notice in writing given—
 - (i) by the appellant to HMRC, or
 - (ii) by HMRC to the appellant.”

(10) Omit subsection (8).

(11) After subsection (8) insert—

“(8A) Where an agreement is made which has effect under subsection (7), references in subsection (6)(a) and (b) above to the date of the determination shall be construed as references to the date that the agreement is confirmed in writing.”.

(12) In subsection (9)(a)(i) for “the inspector issues” substitute “HMRC issue”.

(13) Omit subsection (10).

(14) For subsection (10B) substitute—

“(10B) References in this section to agreements between an appellant and HMRC, and to the giving of notices between the parties, include references to agreements, and the giving of notices, between a person acting on behalf of the appellant in relation to the appeal and HMRC.”.

(15) Omit subsection (11).

Commencement Information

I34 Sch. 1 para. 34 in force at 1.4.2009, see **art. 1(2)**

35. For section 56 (statement of case for opinion of the High Court) substitute—

“56. Payment of tax where there is a further appeal

(1) This section applies if a party to an appeal against an assessment (the “initial appeal”) makes a further appeal.

(2) Tax is payable or repayable in accordance with the determination of the court or tribunal on the initial appeal, despite the further appeal having been made.

(3) But in a case where the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—

(a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and

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

Commencement Information

I35 Sch. 1 para. 35 in force at 1.4.2009, see **art. 1(2)**

36. Omit sections 56A to 56D(**18**).

Commencement Information

I36 Sch. 1 para. 36 in force at 1.4.2009, see **art. 1(2)**

37.—(1) Section 57 (regulations about appeals)(**19**) is amended as follows.

(2) In subsection (1)—

(a) for “The Board may make regulations” substitute “The Commissioners for Her Majesty’s Revenue and Customs may make regulations”;

(b) in paragraph (b) for “to appear on” substitute “to be parties to”; and

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (c) in paragraph (e) for “an inspector or other officer of the Board” (in both places) substitute “an officer of Revenue and Customs”.
- (3) After subsection (1) insert—
 - “(1A) Regulations under this section may not make provision for the practice and procedure to be followed in the First-tier Tribunal or Upper Tribunal.”
- (4) In subsection (3)—
 - (a) omit paragraph (a); and
 - (b) in paragraph (c) for “section 46B, 46C or 46D of this Act” substitute “section 46D of this Act or Tribunal Procedure Rules”.

Commencement Information

I37 [Sch. 1 para. 37](#) in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I38 [Sch. 1 para. 38](#) in force at 1.4.2009, see [art. 1\(2\)](#)

39.—(1) Section 59C(9) (surcharges on unpaid income tax and capital gains tax)(**20**) is amended as follows.

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

Commencement Information

I39 [Sch. 1 para. 39](#) in force at 1.4.2009, see [art. 1\(2\)](#)

40.—(1) Section 59DA (claim for repayment in advance of liability being established)(**21**) is amended as follows.

- (2) In subsection (4) for “Commissioners to whom the appeal stands referred” substitute “tribunal”.
- (3) For subsection (5) substitute—
 - “(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”

Commencement Information

I40 [Sch. 1 para. 40](#) in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

41.—(1) Section 93 (failure to make return for income tax and capital gains tax)(**22**) is amended as follows.

(2) In subsection (3)—

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

(3) In subsection (8)—

- (a) after “above” insert “that is notified to the tribunal”;
- (b) for “Commissioners” substitute “tribunal”; and
- (c) in paragraphs (a) and (b) omit “to them”.

Commencement Information

I41 Sch. 1 para. 41 in force at 1.4.2009, see **art. 1(2)**

42.—(1) Section 93A (failure to make partnership return)(**23**) is amended as follows.

(2) In subsection (3)—

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

(3) In subsection (7)—

- (a) after “above” insert “that is notified to the tribunal”;
- (b) for “Commissioners” substitute “tribunal”; and
- (c) in paragraphs (a) and (b) omit “to them”.

Commencement Information

I42 Sch. 1 para. 42 in force at 1.4.2009, see **art. 1(2)**

43. In section 97AA(2)(b) (failure to produce documents under section 19A)(**24**) for “Commissioners” substitute “tribunal”.

Commencement Information

I43 Sch. 1 para. 43 in force at 1.4.2009, see **art. 1(2)**

44. In section 98B(2B) (European economic interest groupings)(**25**)—

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

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

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I44 Sch. 1 para. 44 in force at 1.4.2009, see [art. 1\(2\)](#)

45.—(1) Section 100B (appeals against penalty determination)⁽²⁶⁾ is amended as follows.

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

(3) In subsection (2)—

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

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

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

(4) For subsection (3) substitute—

“(3) In addition to any right of appeal on a point of law under section 11(2) of the TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under subsection (2), but not against any decision which falls under section 11(5)(d) and (e) of the TCEA 2007 and was made in connection with the determination of the amount of the penalty.

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

(3B) On an appeal under this section the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this section.”.

Commencement Information

I45 Sch. 1 para. 45 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

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

(4) Omit subsection (1A).

(5) For subsection (2) substitute—

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

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

(7) For subsection (4) substitute—

“(4) In addition to any right of appeal on a point of law under section 11(2) of the TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the determination of a penalty in proceedings under subsection (1), but not against any decision which falls under section 11(5)(d) and (e) of the TCEA 2007 and was made in connection with the determination of the amount of the penalty.

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

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

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

Commencement Information

I46 Sch. 1 para. 46 in force at 1.4.2009, see [art. 1\(2\)](#)

47. In section 101 (evidence for the purposes of proceedings relating to penalties)(**27**) for “any Commissioners on appeal” substitute “the tribunal on an appeal notified to it”.

Commencement Information

I47 Sch. 1 para. 47 in force at 1.4.2009, see [art. 1\(2\)](#)

48. In section 103(1) and (4) (time limits for penalties)(**28**) for “Commissioners” substitute “tribunal”.

Commencement Information

I48 Sch. 1 para. 48 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In subsection (1)—

- (a) for “the Commissioners, inspectors, collectors and other officers having powers in relation to tax” substitute “HMRC”; and
- (b) for “Commissioners having jurisdiction in the case” substitute “tribunal”.

(3) Omit subsection (2).

Commencement Information

I49 Sch. 1 para. 49 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

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

Commencement Information

I50 Sch. 1 para. 50 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

- (a) “the General Commissioners Regulations”; and
- (b) “the Special Commissioners Regulations”.

(27) Section 101 was substituted by paragraph 39 of, and Schedule 19 to, the [Finance Act 1998 \(c. 36\)](#).

(28) Section 103 was substituted by section 169 to the [Finance Act 1989 \(c. 26\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (3) In subsection (1) insert the following definitions at the appropriate places—
- ““HMRC” means Her Majesty’s Revenue and Customs;”;
- ““the TCEA 2007” means the Tribunals, Courts and Enforcement Act 2007;”;
- ““the tribunal” is to be read in accordance with section 47C;”.
- (4) In subsection (2) for “Commissioners” substitute “tribunal”.
- (5) In subsection (4) for “any Commissioners on appeal” substitute “the tribunal on an appeal notified to it”.

Commencement Information

I51 Sch. 1 para. 51 in force at 1.4.2009, see **art. 1(2)**

52. Omit Schedule 1.

Commencement Information

I52 Sch. 1 para. 52 in force at 1.4.2009, see **art. 1(2)**

53. Schedule 1A (claims etc not included in returns)(**29**) is amended as follows.

Commencement Information

I53 Sch. 1 para. 53 in force at 1.4.2009, see **art. 1(2)**

54. In paragraph 2A(3)(**30**) for “Commissioners” substitute “tribunal”.

Commencement Information

I54 Sch. 1 para. 54 in force at 1.4.2009, see **art. 1(2)**

- 55.**—(1) Paragraph 6A(**31**) is amended as follows—
- (2) In sub-paragraph (3)—
- (a) for the words before paragraph (a) substitute—
- “(3) If an appeal is under section 49D, 49G or 49H, the tribunal—”;
- (b) in paragraph (a), for “to them not” substitute “not to be”; and
- (c) in paragraph (b), for “to them are” substitute “to be”.
- (3) In sub-paragraph (4), for “Commissioners” substitute “tribunal”.
- (4) For sub-paragraph (5) substitute “Notwithstanding the provisions of sections 11 and 13 of the TCEA the decision of the tribunal shall be final and conclusive.”.

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

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

(31) Paragraph 6A was inserted by paragraph 142 of Schedule 19 to the [Finance Act 1998](#) (c. 26).

Commencement Information

I55 Sch. 1 para. 55 in force at 1.4.2009, see **art. 1(2)**

56.—(1) Paragraph 7(**32**) is amended as follows.

(2) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.

(3) For sub-paragraph (6) substitute—

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

(4) In sub-paragraph (7)—

(a) for “Commissioners hearing the application” substitute “tribunal”; and

(b) omit “they are”.

Commencement Information

I56 Sch. 1 para. 56 in force at 1.4.2009, see **art. 1(2)**

57.—(1) Paragraph 9(**33**) is amended as follows.

(2) In sub-paragraph (3)—

(a) for “On” substitute “In the case of”; and

(b) for “the Commissioners” substitute “if an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal”.

(3) In sub-paragraph (4) for “the Commissioners” substitute “HMRC or by the tribunal”.

(4) In sub-paragraph (5)—

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

(b) omit “to them”.

Commencement Information

I57 Sch. 1 para. 57 in force at 1.4.2009, see **art. 1(2)**

58. Omit paragraphs 10 and 11.

Commencement Information

I58 Sch. 1 para. 58 in force at 1.4.2009, see **art. 1(2)**

59. Omit Schedule 3.

(32) Paragraph 7 was substituted by section 88 of, and paragraph 10 of Schedule 29 to, the [Finance Act 2001](#) (c. 9).

(33) Paragraph 9(3) was amended and sub-paragraph (5) inserted by paragraph 10 of Schedule 19 to the [Finance Act 1996](#) (c. 8).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I59 Sch. 1 para. 59 in force at 1.4.2009, see **art. 1(2)**

60. Schedule 3A (electronic lodgement of tax returns etc)(**34**) is amended as follows.

Commencement Information

I60 Sch. 1 para. 60 in force at 1.4.2009, see **art. 1(2)**

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

(2) In sub-paragraph (6) omit “to the Special Commissioners”,

(3) In sub-paragraph (8)—

(a) for “The Special Commissioners” substitute “If an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal”; and

(b) omit “ to them”.

(4) In sub-paragraph (9)—

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

(b) for “they” substitute “it”.

Commencement Information

I61 Sch. 1 para. 61 in force at 1.4.2009, see **art. 1(2)**

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

Commencement Information

I62 Sch. 1 para. 62 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I5 Sch. 1 para. 5 in force at 1.4.2009, see **art. 1(2)**

I6 Sch. 1 para. 6 in force at 1.4.2009, see **art. 1(2)**

I7 Sch. 1 para. 7 in force at 1.4.2009, see **art. 1(2)**

I8 Sch. 1 para. 8 in force at 1.4.2009, see **art. 1(2)**

I9 Sch. 1 para. 9 in force at 1.4.2009, see **art. 1(2)**

I10 Sch. 1 para. 10 in force at 1.4.2009, see **art. 1(2)**

I11 Sch. 1 para. 11 in force at 1.4.2009, see **art. 1(2)**

I12 Sch. 1 para. 12 in force at 1.4.2009, see **art. 1(2)**

I13 Sch. 1 para. 13 in force at 1.4.2009, see **art. 1(2)**

I14 Sch. 1 para. 14 in force at 1.4.2009, see **art. 1(2)**

I15 Sch. 1 para. 15 in force at 1.4.2009, see **art. 1(2)**

I16 Sch. 1 para. 16 in force at 1.4.2009, see **art. 1(2)**

I17 Sch. 1 para. 17 in force at 1.4.2009, see **art. 1(2)**

(34) Schedule 3A was inserted by paragraph 2 of Schedule 28 to the Finance Act 1995 (c. 4).

- I18** Sch. 1 para. 18 in force at 1.4.2009, see **art. 1(2)**
- I19** Sch. 1 para. 19 in force at 1.4.2009, see **art. 1(2)**
- I20** Sch. 1 para. 20 in force at 1.4.2009, see **art. 1(2)**
- I21** Sch. 1 para. 21 in force at 1.4.2009, see **art. 1(2)**
- I22** Sch. 1 para. 22 in force at 1.4.2009, see **art. 1(2)**
- I23** Sch. 1 para. 23 in force at 1.4.2009, see **art. 1(2)**
- I24** Sch. 1 para. 24 in force at 1.4.2009, see **art. 1(2)**
- I25** Sch. 1 para. 25 in force at 1.4.2009, see **art. 1(2)**
- I26** Sch. 1 para. 26 in force at 1.4.2009, see **art. 1(2)**
- I27** Sch. 1 para. 27 in force at 1.4.2009, see **art. 1(2)**
- I28** Sch. 1 para. 28 in force at 1.4.2009, see **art. 1(2)**
- I29** Sch. 1 para. 29 in force at 1.4.2009, see **art. 1(2)**
- I30** Sch. 1 para. 30 in force at 1.4.2009, see **art. 1(2)**
- I31** Sch. 1 para. 31 in force at 1.4.2009, see **art. 1(2)**
- I32** Sch. 1 para. 32 in force at 1.4.2009, see **art. 1(2)**
- I33** Sch. 1 para. 33 in force at 1.4.2009, see **art. 1(2)**
- I34** Sch. 1 para. 34 in force at 1.4.2009, see **art. 1(2)**
- I35** Sch. 1 para. 35 in force at 1.4.2009, see **art. 1(2)**
- I36** Sch. 1 para. 36 in force at 1.4.2009, see **art. 1(2)**
- I37** Sch. 1 para. 37 in force at 1.4.2009, see **art. 1(2)**
- I38** Sch. 1 para. 38 in force at 1.4.2009, see **art. 1(2)**
- I39** Sch. 1 para. 39 in force at 1.4.2009, see **art. 1(2)**
- I40** Sch. 1 para. 40 in force at 1.4.2009, see **art. 1(2)**
- I41** Sch. 1 para. 41 in force at 1.4.2009, see **art. 1(2)**
- I42** Sch. 1 para. 42 in force at 1.4.2009, see **art. 1(2)**
- I43** Sch. 1 para. 43 in force at 1.4.2009, see **art. 1(2)**
- I44** Sch. 1 para. 44 in force at 1.4.2009, see **art. 1(2)**
- I45** Sch. 1 para. 45 in force at 1.4.2009, see **art. 1(2)**
- I46** Sch. 1 para. 46 in force at 1.4.2009, see **art. 1(2)**
- I47** Sch. 1 para. 47 in force at 1.4.2009, see **art. 1(2)**
- I48** Sch. 1 para. 48 in force at 1.4.2009, see **art. 1(2)**
- I49** Sch. 1 para. 49 in force at 1.4.2009, see **art. 1(2)**
- I50** Sch. 1 para. 50 in force at 1.4.2009, see **art. 1(2)**
- I51** Sch. 1 para. 51 in force at 1.4.2009, see **art. 1(2)**
- I52** Sch. 1 para. 52 in force at 1.4.2009, see **art. 1(2)**
- I53** Sch. 1 para. 53 in force at 1.4.2009, see **art. 1(2)**
- I54** Sch. 1 para. 54 in force at 1.4.2009, see **art. 1(2)**
- I55** Sch. 1 para. 55 in force at 1.4.2009, see **art. 1(2)**
- I56** Sch. 1 para. 56 in force at 1.4.2009, see **art. 1(2)**
- I57** Sch. 1 para. 57 in force at 1.4.2009, see **art. 1(2)**
- I58** Sch. 1 para. 58 in force at 1.4.2009, see **art. 1(2)**
- I59** Sch. 1 para. 59 in force at 1.4.2009, see **art. 1(2)**
- I60** Sch. 1 para. 60 in force at 1.4.2009, see **art. 1(2)**
- I61** Sch. 1 para. 61 in force at 1.4.2009, see **art. 1(2)**
- I62** Sch. 1 para. 62 in force at 1.4.2009, see **art. 1(2)**

Courts Act 1971

63. In Part 1A of Schedule 2 to the Courts Act 1971**(35)** omit the entries relating to—

(35) 1971 c.23. Schedule 1A was inserted by paragraph 31 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I63 Sch. 1 para. 63 in force at 1.4.2009, see **art. 1(2)**

Finance Act 1973

64. The Finance Act 1973(36) is amended as follows.

Commencement Information

I64 Sch. 1 para. 64 in force at 1.4.2009, see **art. 1(2)**

65. Omit section 41.

Commencement Information

I65 Sch. 1 para. 65 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I64 Sch. 1 para. 64 in force at 1.4.2009, see **art. 1(2)**

I65 Sch. 1 para. 65 in force at 1.4.2009, see **art. 1(2)**

Finance Act 1975

66. The Finance Act 1975(37) is amended as follows.

Commencement Information

I66 Sch. 1 para. 66 in force at 1.4.2009, see **art. 1(2)**

67. Omit section 57.

Commencement Information

I67 Sch. 1 para. 67 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I66 Sch. 1 para. 66 in force at 1.4.2009, see **art. 1(2)**

I67 Sch. 1 para. 67 in force at 1.4.2009, see **art. 1(2)**

(36) 1973 c. 51.

(37) 1975 c. 7.

Oil Taxation Act 1975

68. The Oil Taxation Act 1975(38) is amended as follows.

Commencement Information

I68 Sch. 1 para. 68 in force at 1.4.2009, see art. 1(2)

69. Schedule 2 (management and collection of petroleum revenue tax) is amended as follows.

Commencement Information

I69 Sch. 1 para. 69 in force at 1.4.2009, see art. 1(2)

70.—(1) The table in paragraph 1(39) is amended as follows.

- (2) Omit the entries for sections 4, 46A, 53, 56B, 56C, 56D, 58(2B), 58(2C) and 58(3).
- (3) After the entry for section 36 insert “47C” in the first column and “—” in the second column.
- (4) In the entry for section 49(1) omit “(1)”.
- (5) For “56A” substitute “56”.
- (6) In the entry for section “100C(1)” —
 - (a) substitute “100C”;
 - (b) for the second column of the entry substitute “In subsection (1) omit the words after “penalty””.
- (7) Omit the entries for section 100C(2) to (5).
- (8) In the entries for section 103(1) and (4) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I70 Sch. 1 para. 70 in force at 1.4.2009, see art. 1(2)

71. In paragraph 3(1)(b) for “Commissioners before whom” substitute “tribunal before which”.

Commencement Information

I71 Sch. 1 para. 71 in force at 1.4.2009, see art. 1(2)

72. In paragraph 6(1)(b) for “Commissioners before whom” substitute “the tribunal before which”.

Commencement Information

I72 Sch. 1 para. 72 in force at 1.4.2009, see art. 1(2)

(38) 1975 c. 22.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

73. In paragraph 8(1)(c)(40) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I73 Sch. 1 para. 73 in force at 1.4.2009, see **art. 1(2)**

74.—(1) Paragraph 14(41) is amended as follows.

(2) In sub-paragraph (1)—

- (a) omit “to the Special Commissioners”; and
- (b) for “the Board” substitute “HMRC”.

(3) For sub-paragraph (2) substitute—

“(2) The notice of appeal must specify the grounds of appeal.”

(4) In sub-paragraph (8) for “the Board”, in both places, substitute “HMRC”.

(5) In sub-paragraph (9)—

- (a) for “the Board” (in both places) substitute “HMRC”;
- (b) for “Special Commissioners” substitute “tribunal”; and
- (c) for “Commissioners” substitute “tribunal”.

(6) In sub-paragraph (10)—

- (a) for “, on the appeal,” substitute “the appeal that is notified to the tribunal and”;
- (b) for “a majority of the Commissioners present at the hearing” substitute “the tribunal”; and
- (c) for “Commissioners”, in both of the other places, substitute “tribunal”.

(7) For sub-paragraph (11) substitute “Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007 the decision of the tribunal shall be final and conclusive.”

Commencement Information

I74 Sch. 1 para. 74 in force at 1.4.2009, see **art. 1(2)**

75. After paragraph 14 insert—

“Appeal: HMRC review or determination by tribunal

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

(2) In such a case—

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

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

(40) Paragraph 8(1) was amended by section 187(1) of the [Finance Act 1993 \(c. 34\)](#).

(41) Paragraph 14 was amended by section 130 of the [Finance Act 1976 \(c. 40\)](#).

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

Participant requires review by HMRC

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

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

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

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

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

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

- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the participant, or
- (b) such longer period as is reasonable.

HMRC offer review

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

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

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

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

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

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Notifying appeal to the tribunal

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

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

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

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

(a) HMRC have given a notification of their view of the matter in question under paragraph 14B, or

(b) HMRC have given a notification under paragraph 14C in relation to the matter in question.

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

Nature of review etc

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

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

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

(a) by HMRC in deciding the matter in question, and

(b) by any person in seeking to resolve disagreement about the matter in question.

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

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

(a) upheld,

(b) varied, or

(c) cancelled.

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

(a) the period of 45 days beginning with the relevant day, or

(b) such other period as may be agreed.

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

(a) in a case where the participator required the review, the day when HMRC notified the participator of HMRC’s view of the matter in question,

(b) in a case where HMRC offered the review, the day when HMRC received notification of the participator’s acceptance of the offer.

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

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

Effect of conclusions of review

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

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

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

Notifying appeal to tribunal after review concluded

14G.—(1) This paragraph applies if—

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

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

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

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

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

- (a) in a case falling within sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 14E(6), or
- (b) in a case falling within sub-paragraph (1)(b), the period that—
 - (i) begins with the day following the last day of the period specified in paragraph 14E(6), and
 - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with paragraph 14E(9).

Notifying appeal to tribunal after review offered but not accepted

14H.—(1) This paragraph applies if—

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

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

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

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

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

Interpretation of paragraphs 14A to 14H

14I.—(1) In paragraphs 14A to 14H—

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (b) a reference to a notification is a reference to a notification in writing.
- (2) In paragraphs 14A to 14H, a reference to the participator includes a person acting on behalf of the participator except in relation to—
- (a) notification of HMRC’s view under paragraph 14B(2);
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 14C;
 - (c) notification of the conclusions of a review under paragraph 14E(6); and
 - (d) notification of the conclusions of a review under paragraph 14E(9).
- (3) But if a notification falling within sub-paragraph (2) is given to the participator, a copy of the notification may also be given to a person acting on behalf of the participator.”.

Commencement Information

I75 Sch. 1 para. 75 in force at 1.4.2009, see **art. 1(2)**

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

Commencement Information

I76 Sch. 1 para. 76 in force at 1.4.2009, see **art. 1(2)**

- 77.**—(1) Paragraph 5 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “person may” insert “appeal”; and
 - (b) omit “appeal to the Special Commissioners”.
- (3) In sub-paragraph (2)—
- (a) after “On an appeal” insert “that is notified to the tribunal”; and
 - (b) for “appear and be heard” substitute “be a party”.
- (4) In sub-paragraph (3) after “any time” insert “before it is notified to the tribunal”.
- (5) In sub-paragraph (4)—
- (a) after “On an appeal” insert “that is notified to the tribunal”; and
 - (b) for “Special Commissioners” substitute “tribunal”.
- (6) After sub-paragraph (4) insert—
- “(5) The provisions of paragraphs 14A to 14I of Schedule 2(42) shall apply to appeals under this paragraph subject to any necessary modifications.”.

Commencement Information

I77 Sch. 1 para. 77 in force at 1.4.2009, see **art. 1(2)**

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

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

Commencement Information

I78 Sch. 1 para. 78 in force at 1.4.2009, see **art. 1(2)**

- 79.**—(1) Paragraph 7 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “Where” insert “;” and
- (b) for “the Special Commissioners determine” substitute “that is notified to the tribunal, the tribunal determines”.
- (3) In sub-paragraph (3) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I79 Sch. 1 para. 79 in force at 1.4.2009, see **art. 1(2)**

- 80.**—(1) Paragraph 8(43) is amended as follows.
- (2) For sub-paragraph (1)(a) substitute—
- “(a) an appeal is made against a determination by the tribunal on an appeal under paragraph 5 above; and”
- (3) In sub-paragraph (1)(b) for “Special Commissioners” substitute “tribunal”.
- (4) In sub-paragraph (5) after “court” add “or the tribunal”.

Commencement Information

I80 Sch. 1 para. 80 in force at 1.4.2009, see **art. 1(2)**

- 81.**—(1) Paragraph 9(44) is amended as follows.
- (2) In sub-paragraph (3) omit “to the Special Commissioners”.
- (3) In sub-paragraph (5) after “any time” insert “before it is notified to the tribunal”.
- (4) In sub-paragraph (7) for “Special Commissioners” substitute “tribunal”.
- (5) In sub-paragraph (8)—
- (a) after “On an appeal” insert “that is notified to the tribunal”; and
- (b) for “Special Commissioners” substitute “tribunal”.
- (6) In sub-paragraph (10)(a) omit “to the Special Commissioners”.
- (7) In sub-paragraph (10)(b) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I81 Sch. 1 para. 81 in force at 1.4.2009, see **art. 1(2)**

- 82.** After paragraph 9 insert—

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I82 Sch. 1 para. 82 in force at 1.4.2009, see **art. 1(2)**

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

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

Commencement Information

I83 Sch. 1 para. 83 in force at 1.4.2009, see **art. 1(2)**

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

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

Commencement Information

I84 Sch. 1 para. 84 in force at 1.4.2009, see **art. 1(2)**

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

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

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

(4) After sub-paragraph (2) insert—

“(3) The provisions of paragraphs 14A to 14I of Schedule 2(45) shall apply to appeals under this paragraph subject to any necessary modifications.”.

Commencement Information

I85 Sch. 1 para. 85 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I68 Sch. 1 para. 68 in force at 1.4.2009, see **art. 1(2)**

I69 Sch. 1 para. 69 in force at 1.4.2009, see **art. 1(2)**

I70 Sch. 1 para. 70 in force at 1.4.2009, see **art. 1(2)**

I71 Sch. 1 para. 71 in force at 1.4.2009, see **art. 1(2)**

I72 Sch. 1 para. 72 in force at 1.4.2009, see **art. 1(2)**

I73 Sch. 1 para. 73 in force at 1.4.2009, see **art. 1(2)**

I74 Sch. 1 para. 74 in force at 1.4.2009, see **art. 1(2)**

I75 Sch. 1 para. 75 in force at 1.4.2009, see **art. 1(2)**

I76 Sch. 1 para. 76 in force at 1.4.2009, see **art. 1(2)**

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

- I77** Sch. 1 para. 77 in force at 1.4.2009, see [art. 1\(2\)](#)
- I78** Sch. 1 para. 78 in force at 1.4.2009, see [art. 1\(2\)](#)
- I79** Sch. 1 para. 79 in force at 1.4.2009, see [art. 1\(2\)](#)
- I80** Sch. 1 para. 80 in force at 1.4.2009, see [art. 1\(2\)](#)
- I81** Sch. 1 para. 81 in force at 1.4.2009, see [art. 1\(2\)](#)
- I82** Sch. 1 para. 82 in force at 1.4.2009, see [art. 1\(2\)](#)
- I83** Sch. 1 para. 83 in force at 1.4.2009, see [art. 1\(2\)](#)
- I84** Sch. 1 para. 84 in force at 1.4.2009, see [art. 1\(2\)](#)
- I85** Sch. 1 para. 85 in force at 1.4.2009, see [art. 1\(2\)](#)

House of Commons Disqualification Act 1975

86.—(1) Schedule 1 to the House of Commons Disqualification Act 1975(**46**) (offices disqualifying for membership) is amended as follows.

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

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

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

Commencement Information

- I86** Sch. 1 para. 86 in force at 1.4.2009, see [art. 1\(2\)](#)

Northern Ireland Assembly Disqualification Act 1975

87. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(**47**) (offices disqualifying for membership: bodies of which all members are disqualified) omit the entry relating to a Value Added Tax Tribunal.

Commencement Information

- I87** Sch. 1 para. 87 in force at 1.4.2009, see [art. 1\(2\)](#)

Customs and Excise Management Act 1979

88. The Customs and Excise Management Act 1979(**48**) is amended as follows.

Commencement Information

- I88** Sch. 1 para. 88 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(46) 1975 c. 24. In part 3 the entry relating to the “Chairman of the tribunal constituted under section 706 of the Income and Corporation Taxes Act 1988” was amended by paragraph 267 of Schedule 1 to the [Income Tax Act 2007 \(c. 3\)](#).

(47) 1975 c. 25.

(48) 1979 c. 2.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I89 Sch. 1 para. 89 in force at 1.4.2009, see **art. 1(2)**

90.—(1) Section 94(4B) (deficiency in warehoused goods)(**49**) is amended as follows.

(2) For paragraph (a) substitute—

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

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

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

Commencement Information

I90 Sch. 1 para. 90 in force at 1.4.2009, see **art. 1(2)**

91. In section 170A(2) (offence of handling goods subject to unpaid excise duty)(**50**) for “a VAT and duties tribunal” substitute “the tribunal”.

Commencement Information

I91 Sch. 1 para. 91 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I88 Sch. 1 para. 88 in force at 1.4.2009, see **art. 1(2)**

I89 Sch. 1 para. 89 in force at 1.4.2009, see **art. 1(2)**

I90 Sch. 1 para. 90 in force at 1.4.2009, see **art. 1(2)**

I91 Sch. 1 para. 91 in force at 1.4.2009, see **art. 1(2)**

Tobacco Products Duty Act 1979

92. The Tobacco Products Duty Act 1979(**51**) is amended as follows.

Commencement Information

I92 Sch. 1 para. 92 in force at 1.4.2009, see **art. 1(2)**

93.—(1) Section 7C (penalty for facilitating evasion: penalty notice)(**52**) is amended as follows.

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

(**49**) Subsection (4B) was inserted by paragraph 5 of Schedule 6 to the [Finance Act 1997 \(c. 16\)](#).

(**50**) Section 170A was inserted by section 3 of, and paragraph 8 of Schedule 2 to, the [Finance \(No 2\) Act 1992 \(c. 48\)](#) and amended by the [Finance Act 1994 \(c. 9\)](#).

(**51**) [1979 c. 7](#).

(**52**) Section 7C was inserted by section 2(1) of the [Finance Act 2006 \(c. 25\)](#).

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

Commencement Information

I93 Sch. 1 para. 93 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I92 Sch. 1 para. 92 in force at 1.4.2009, see **art. 1(2)**

I93 Sch. 1 para. 93 in force at 1.4.2009, see **art. 1(2)**

Finance Act 1980

94. The Finance Act 1980(**53**) is amended as follows.

Commencement Information

I94 Sch. 1 para. 94 in force at 1.4.2009, see **art. 1(2)**

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

(2) In sub-paragraph (2)—

(a) for “may by notice” substitute “may appeal by notice”; and

(b) omit “appeal to the Special Commissioners”.

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

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

(5) After sub-paragraph (5) insert—

“(6) The provisions of paragraphs 14A to 14I of Schedule 2 to the Oil Taxation Act 1975(**54**) shall apply to appeals under this paragraph subject to any necessary modifications.”.

Commencement Information

I95 Sch. 1 para. 95 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I94 Sch. 1 para. 94 in force at 1.4.2009, see **art. 1(2)**

I95 Sch. 1 para. 95 in force at 1.4.2009, see **art. 1(2)**

Betting and Gaming Duties Act 1981

96. The Betting and Gaming Duties Act 1981(**55**) is amended as follows.

(53) 1980 c. 48.

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

(55) 1981 c. 63.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I96 Sch. 1 para. 96 in force at 1.4.2009, see [art. 1\(2\)](#)

97.—(1) Section 26M (review and appeal)(**56**) is amended as follows—

(2) In subsection (1)—

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

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

Commencement Information

I97 Sch. 1 para. 97 in force at 1.4.2009, see [art. 1\(2\)](#)

98.—(1) Paragraph 7A of Schedule 4 (payment of duty by instalments)(**57**) is amended as follows.

(2) In sub-paragraph (5)—

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

Commencement Information

I98 Sch. 1 para. 98 in force at 1.4.2009, see [art. 1\(2\)](#)

99.—(1) Paragraph 6 of Schedule 4A (reviews and time limits on recovery)(**58**) is amended as follows.

(2) In sub-paragraph (1)—

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

Commencement Information

I99 Sch. 1 para. 99 in force at 1.4.2009, see [art. 1\(2\)](#)

(56) Inserted by section 8 of, and Part 1 of Schedule 1 to, the [Finance Act 2007 \(c. 11\)](#).

(57) Inserted by paragraph 11(5) of Schedule 3 to the [Finance Act 2007](#).

(58) Inserted by paragraphs 1 and 10 of Schedule 2 to the [Finance Act 2000 \(c. 17\)](#).

Commencement Information

- I96** Sch. 1 para. 96 in force at 1.4.2009, see [art. 1\(2\)](#)
- I97** Sch. 1 para. 97 in force at 1.4.2009, see [art. 1\(2\)](#)
- I98** Sch. 1 para. 98 in force at 1.4.2009, see [art. 1\(2\)](#)
- I99** Sch. 1 para. 99 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1982

100. The Finance Act 1982(**59**) is amended as follows.

Commencement Information

- I100** Sch. 1 para. 100 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Commencement Information

- I101** Sch. 1 para. 101 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (a) in the words before paragraph (a) after “paragraph 14 of” insert “and paragraphs 14A to 14I of”;
- (b) in paragraph (a) for “sub-paragraph (3)” substitute “paragraph 14(3)”;
- (c) in paragraph (b) for “sub-paragraph (3)(b)” substitute “paragraph 14(3)(b)”;
- (d) in paragraph (c) omit “and”;
- (e) in paragraphs (c) and (d) for “sub-paragraph 10” substitute “paragraph 14(10)”; and
- (f) at the end of sub-paragraph (d) insert
“; and
(e) in the case of paragraphs 14A to 14I of Schedule 2(60), with such modifications as may be necessary”.

Commencement Information

I102 Sch. 1 para. 102 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I100 Sch. 1 para. 100 in force at 1.4.2009, see [art. 1\(2\)](#)

I101 Sch. 1 para. 101 in force at 1.4.2009, see [art. 1\(2\)](#)

I102 Sch. 1 para. 102 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1984

103. The Finance Act 1984(61) is amended as follows.

Commencement Information

I103 Sch. 1 para. 103 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In subsection (6)—

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

(3) After subsection (6) insert—

“(6A) The provisions of paragraphs 14A to 14I of Schedule 2(62) to the principal Act shall apply to appeals under this paragraph subject to any necessary modifications.”.

Commencement Information

I104 Sch. 1 para. 104 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(61) 1984 c. 43.

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

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

Commencement Information

I105 Sch. 1 para. 105 in force at 1.4.2009, see [art. 1\(2\)](#)

106. Omit section 127.

Commencement Information

I106 Sch. 1 para. 106 in force at 1.4.2009, see [art. 1\(2\)](#)

107. Omit Schedule 22.

Commencement Information

I107 Sch. 1 para. 107 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I103 Sch. 1 para. 103 in force at 1.4.2009, see [art. 1\(2\)](#)

I104 Sch. 1 para. 104 in force at 1.4.2009, see [art. 1\(2\)](#)

I105 Sch. 1 para. 105 in force at 1.4.2009, see [art. 1\(2\)](#)

I106 Sch. 1 para. 106 in force at 1.4.2009, see [art. 1\(2\)](#)

I107 Sch. 1 para. 107 in force at 1.4.2009, see [art. 1\(2\)](#)

Inheritance Tax Act 1984

108. The Inheritance Tax Act 1984(**63**) is amended as follows.

Commencement Information

I108 Sch. 1 para. 108 in force at 1.4.2009, see [art. 1\(2\)](#)

109.—(1) Section 35A (variation of undertakings)(**64**) is amended as follows.

(2) In subsection (2)—

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

(3) In subsection (3)—

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

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

(63) 1984 c. 51.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I109 Sch. 1 para. 109 in force at 1.4.2009, see [art. 1\(2\)](#)

110. In section 54A(3) (special rate of charge where settled property affected by potentially exempt transfer)(**65**) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I110 Sch. 1 para. 110 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In subsection (2)—

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

(3) In subsection (3)—

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

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

Commencement Information

I111 Sch. 1 para. 111 in force at 1.4.2009, see [art. 1\(2\)](#)

112. In section 219(1A) (power to require information)(**66**)—

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

Commencement Information

I112 Sch. 1 para. 112 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In subsection (4)—

- (a) for “Special Commissioners” substitute “tribunal”; and
- (b) omit “to them” in paragraphs (a) and (b).

(3) In subsection (5) for “Special Commissioners confirm” substitute “tribunal confirms”.

(4) In subsection (6) for “under section 225 below” substitute “under sections 11 or 13 of the TCEA 2007”.

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

(66) Sections 219A and 219B were inserted by section 106 of the [Finance Act 1999 \(c. 16\)](#).

Commencement Information

I113 Sch. 1 para. 113 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I114 Sch. 1 para. 114 in force at 1.4.2009, see [art. 1\(2\)](#)

115.—(1) Section 222 (appeals against determination)(**67**) is amended as follows.

(2) For subsection (2) substitute—

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

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

(4) In subsection (4)—

(a) after “may be” insert “notified”; and

(b) after “appropriate” insert “Lands”.

(5) After subsection (4) insert—

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

(6) For subsection (4A) substitute—

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

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

Commencement Information

I115 Sch. 1 para. 115 in force at 1.4.2009, see [art. 1\(2\)](#)

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

“223 Late notice of appeal

(1) This section applies in a case where—

(a) notice of appeal may be given to HMRC under section 222, but

(b) no notice is given before the relevant time limit.

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

(a) HMRC agree, or

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

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

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

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

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

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

Commencement Information

I116 Sch. 1 para. 116 in force at 1.4.2009, see **art. 1(2)**

117. After section 223 insert—

“223A Appeal: HMRC review or determination by tribunal

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

(2) In such a case—

(a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 223B),

(b) HMRC may notify the appellant of an offer to review the matter in question (see section 223C), or

(c) the appellant may notify the appeal to the tribunal (see section 223D).

(3) See sections 223G and 223H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

223B Appellant requires review by HMRC

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

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

(3) HMRC must review the matter in question in accordance with section 223E.

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

(a) the appellant has already given a notification under this section in relation to the matter in question,

(b) HMRC have given a notification under section 223C in relation to the matter in question, or

- (c) the appellant has notified the appeal to the court under section 222(3), the appropriate Lands tribunal under section 222(4), or the tribunal under section 223D.
- (5) In this section “relevant period” means—
 - (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
 - (b) such longer period as is reasonable.

223C HMRC offer review

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

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

(3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 223E.

(4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question shall be conclusive for the purposes of this Act.

(5) The same consequences shall follow for all purposes as would have followed if, on the date that HMRC gave notice of their view, the tribunal had determined the appeal in accordance with its terms.

(6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 223H.

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

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

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

223D Notifying appeal to the tribunal

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

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

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

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

- (a) HMRC have given a notification of their view of the matter in question under section 223B, or
- (b) HMRC have given a notification under section 223C in relation to the matter in question.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

(5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 223G or 223H.

223E Nature of review etc

(1) This section applies if HMRC are required by section 223B or 223C to review the matter in question.

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

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

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

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

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

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

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

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

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

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

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

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

223F Effect of conclusions of review

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

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

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

223G Notifying appeal to tribunal after review concluded

(1) This section applies if—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (a) HMRC have given notice of the conclusions of a review in accordance with section 223E, or
 - (b) the period specified in section 223E(6) has ended and HMRC have not given notice of the conclusions of the review.
- (2) The appellant may notify the appeal to the tribunal within the post-review period.
- (3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).
- (6) In this section “post-review period” means—
- (a) in a case falling within subsection (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 223E(6), or
 - (b) in a case falling within subsection (1)(b), the period that—
 - (i) begins with the day following the last day of the period specified in section 223E(6), and
 - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with section 223E(9).

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

- (1) This section applies if—
- (a) HMRC have offered to review the matter in question (see section 223C), and
 - (b) the appellant has not accepted the offer.
- (2) The appellant may notify the appeal to the tribunal within the acceptance period.
- (3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).
- (6) In this section “acceptance period” has the same meaning as in section 223C.

223I Interpretation of sections 223A to 223H

- (1) In sections 223A to 223H—
- (a) “matter in question” means the matter to which an appeal relates;
 - (b) a reference to a notification is a reference to a notification in writing.
- (2) In sections 223A to 223H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
- (a) notification of HMRC’s view under section 223B(2);

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

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

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

Commencement Information

I117 Sch. 1 para. 117 in force at 1.4.2009, see [art. 1\(2\)](#)

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

“224 Determination of appeal by tribunal

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

Commencement Information

I118 Sch. 1 para. 118 in force at 1.4.2009, see [art. 1\(2\)](#)

119. Omit sections 225 and 225A.

Commencement Information

I119 Sch. 1 para. 119 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I120 Sch. 1 para. 120 in force at 1.4.2009, see [art. 1\(2\)](#)

121. In section 245A (failure to provide information etc)(**68**) for “Special Commissioners”, in each place, substitute “tribunal”.

Commencement Information

I121 Sch. 1 para. 121 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

(3) For subsection (3) substitute—

(68) Section 245A was inserted by section 106 of the [Finance Act 1999 \(c. 16\)](#).

“(3) Where any proceedings are brought before the First-tier Tribunal, in addition to any right of appeal on a point of law under section 11(2) of the TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of a penalty which has been determined under this Part, but not against any decision which falls under section 11(5) (d) and (e) of the TCEA 2007 and was made in connection with the determination of the amount of the penalty.

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

(3B) On an appeal under this section the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this section.”.

(4) For subsection (4) substitute—

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

Commencement Information

I122 Sch. 1 para. 122 in force at 1.4.2009, see [art. 1\(2\)](#)

123. Omit section 251.

Commencement Information

I123 Sch. 1 para. 123 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

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

Commencement Information

I124 Sch. 1 para. 124 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

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

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

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

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

Commencement Information

I125 Sch. 1 para. 125 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I108 Sch. 1 para. 108 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- I109 Sch. 1 para. 109 in force at 1.4.2009, see [art. 1\(2\)](#)
- I110 Sch. 1 para. 110 in force at 1.4.2009, see [art. 1\(2\)](#)
- I111 Sch. 1 para. 111 in force at 1.4.2009, see [art. 1\(2\)](#)
- I112 Sch. 1 para. 112 in force at 1.4.2009, see [art. 1\(2\)](#)
- I113 Sch. 1 para. 113 in force at 1.4.2009, see [art. 1\(2\)](#)
- I114 Sch. 1 para. 114 in force at 1.4.2009, see [art. 1\(2\)](#)
- I115 Sch. 1 para. 115 in force at 1.4.2009, see [art. 1\(2\)](#)
- I116 Sch. 1 para. 116 in force at 1.4.2009, see [art. 1\(2\)](#)
- I117 Sch. 1 para. 117 in force at 1.4.2009, see [art. 1\(2\)](#)
- I118 Sch. 1 para. 118 in force at 1.4.2009, see [art. 1\(2\)](#)
- I119 Sch. 1 para. 119 in force at 1.4.2009, see [art. 1\(2\)](#)
- I120 Sch. 1 para. 120 in force at 1.4.2009, see [art. 1\(2\)](#)
- I121 Sch. 1 para. 121 in force at 1.4.2009, see [art. 1\(2\)](#)
- I122 Sch. 1 para. 122 in force at 1.4.2009, see [art. 1\(2\)](#)
- I123 Sch. 1 para. 123 in force at 1.4.2009, see [art. 1\(2\)](#)
- I124 Sch. 1 para. 124 in force at 1.4.2009, see [art. 1\(2\)](#)
- I125 Sch. 1 para. 125 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1987

126. The Finance Act 1987(69) is amended as follows.

Commencement Information

I126 Sch. 1 para. 126 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I127 Sch. 1 para. 127 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I128 Sch. 1 para. 128 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

(3) In subsection (7)—

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

(b) in paragraph (b)—

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

- (ii) for “the majority of Commissioners present at the hearing” substitute “tribunal”;
 - (iii) for “they shall” substitute “the tribunal shall”;
 - (iv) for “they think” substitute “the tribunal thinks”; and
 - (c) in paragraph (c) for “Commissioners” substitute “tribunal”.
- (4) For subsection (8) substitute—
- “(8) Paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(70) to the principal Act shall apply in relation to an appeal under subsection (6) as they apply in relation to an appeal against an assessment or determination made under that Act subject to the following modifications—
- (a) any reference in those paragraphs to a participator is to be construed as a reference to the responsible person by whom notice of appeal is given;
 - (b) any reference to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under subsection (7)(a) above;
 - (c) any other modifications that are necessary.”

Commencement Information

I129 Sch. 1 para. 129 in force at 1.4.2009, see [art. 1\(2\)](#)

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

- (2) In sub-paragraph (1) omit “to the Special Commissioners”.
- (3) In sub-paragraph (2)—
 - (a) in paragraph (a) omit “and be entitled to appear accordingly”; and
 - (b) in paragraph (b) for “Special Commissioners” and “Commissioners” substitute “tribunal”.
- (4) In sub-paragraph (2)(c)—
 - (a) for “if, on the hearing of the appeal, it appears to the majority of the Commissioners present” substitute “if, on an appeal notified to the tribunal, it appears to the tribunal”; and
 - (b) for “they” substitute “the tribunal”.
- (5) For sub-paragraph (2)(d) substitute—

“(d) paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(71) to the principal Act shall apply in relation to the appeal as they apply in relation to an appeal against an assessment or determination made under that Act subject to the following modifications—

 - (i) any reference to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (2)(b) above;
 - (ii) any other modifications that are necessary.”

Commencement Information

I130 Sch. 1 para. 130 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information
I131 Sch. 1 para. 131 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information
I126 Sch. 1 para. 126 in force at 1.4.2009, see [art. 1\(2\)](#)
I127 Sch. 1 para. 127 in force at 1.4.2009, see [art. 1\(2\)](#)
I128 Sch. 1 para. 128 in force at 1.4.2009, see [art. 1\(2\)](#)
I129 Sch. 1 para. 129 in force at 1.4.2009, see [art. 1\(2\)](#)
I130 Sch. 1 para. 130 in force at 1.4.2009, see [art. 1\(2\)](#)
I131 Sch. 1 para. 131 in force at 1.4.2009, see [art. 1\(2\)](#)

Income and Corporation Taxes Act 1988

132. The Income and Corporation Taxes Act 1988(72) is amended as follows.

Commencement Information
I132 Sch. 1 para. 132 in force at 1.4.2009, see [art. 1\(2\)](#)

133.—(1) Section 42 (appeals against determinations under sections 34 to 36 etc) is amended as follows.

(2) In subsection (4) omit from “and shall be” to the end.

^{F1}(3)

Textual Amendments
F1 Sch. 1 para. 133(3) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381, Sch. 10 Pt. 12](#) (with Sch. 9 paras. 1-9)
Commencement Information
I133 Sch. 1 para. 133 in force at 1.4.2009, see [art. 1\(2\)](#)

134. For section 102(1) (provisions supplementary to sections 100 and 101) substitute—

“(1) Any question arising under section 100(1)(a) or 101(1)(a) shall be determined, for the purpose of computing for any tax purpose the profits of both the trades or, as the case may be, the professions concerned, in like manner as an appeal.”.

Commencement Information
I134 Sch. 1 para. 134 in force at 1.4.2009, see [art. 1\(2\)](#)

(72) 1988 c. 1.

135.—(1) Section 152 (notification of taxable amount of certain benefits) is amended as follows.

F2(2)

(3) Omit subsection (5)(i) and (ii).

Textual Amendments
F2 Sch. 1 para. 135(2) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 12** (with [Sch. 9 paras. 1-9](#))

Commencement Information
I135 Sch. 1 para. 135 in force at 1.4.2009, see [art. 1\(2\)](#)

136. In section 215(7) and (8) (advance clearance by Board of distributions and payments) for “the Special Commissioners” (in each place) and for “Commissioners” substitute “the tribunal”.

Commencement Information
I136 Sch. 1 para. 136 in force at 1.4.2009, see [art. 1\(2\)](#)

137.—(1) In section 343(10) (company reconstructions without a change of ownership)—

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

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

Commencement Information
I137 Sch. 1 para. 137 in force at 1.4.2009, see [art. 1\(2\)](#)

138. In section 376A(6) (the register of qualifying lenders)(73)—

(a) after “may” insert “appeal”; and

(b) omit from “, require the matter” to the end of the subsection.

Commencement Information
I138 Sch. 1 para. 138 in force at 1.4.2009, see [art. 1\(2\)](#)

139. In section 378(3) (supplementary regulations)(74) for “the General Commissioners or the Special Commissioners” substitute “the tribunal”.

Commencement Information
I139 Sch. 1 para. 139 in force at 1.4.2009, see [art. 1\(2\)](#)

140.—(1) Section 444A(6) (transfers of business)(75) is amended as follows.

(73) Section 376A was inserted by section 142(2) of the [Finance Act 1994 \(c. 9\)](#).

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

(75) Section 444A was inserted by paragraphs 4 and 7 of Schedule 9 to the [Finance Act 1990 \(c. 29\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I140 Sch. 1 para. 140 in force at 1.4.2009, see [art. 1\(2\)](#)

141.—(1) Section 444AZA(5) (transfers of life assurance business: Case VI losses of the transferor)(76) is amended as follows.

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

Commencement Information

I141 Sch. 1 para. 141 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Commencement Information

I142 Sch. 1 para. 142 in force at 1.4.2009, see [art. 1\(2\)](#)

143. In subsections (9), (11) and (12) of section 444AED (clearance: no avoidance or group advantage)(77) for “the Special Commissioners” substitute “the tribunal”.

Commencement Information

I143 Sch. 1 para. 143 in force at 1.4.2009, see [art. 1\(2\)](#)

144. In section 461(8) (taxation in respect of other business)(78) omit “to the Special Commissioners”.

Commencement Information

I144 Sch. 1 para. 144 in force at 1.4.2009, see [art. 1\(2\)](#)

(76) Sections 444AZA and 444AZB were inserted by [S.I. 2008/381](#).

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

(78) Sections 461A(8) and 461C(5) were substituted by [S.I. 2001/3629](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I145 Sch. 1 para. 145 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I146 Sch. 1 para. 146 in force at 1.4.2009, see [art. 1\(2\)](#)

147. In section 506C(8) (sections 506A and 506B: supplemental)(**79**) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I147 Sch. 1 para. 147 in force at 1.4.2009, see [art. 1\(2\)](#)

148. In section 552A(9)(k) (tax representatives)(**80**) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I148 Sch. 1 para. 148 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I149 Sch. 1 para. 149 in force at 1.4.2009, see [art. 1\(2\)](#)

F³150.

Textual Amendments

F3 Sch. 1 paras. 150-153 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F³151.

Textual Amendments

F3 Sch. 1 paras. 150-153 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

F3 152.

.....

Textual Amendments

F3 Sch. 1 paras. 150-153 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F3 153.

.....

Textual Amendments

F3 Sch. 1 paras. 150-153 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

- 154.**—(1) Section 751B (section 751A: supplementary)(**81**) is amended as follows.
- (2) In subsection (5) omit “to the Special Commissioners”.
- (3) In subsection (7)—
- (a) in paragraphs (a) and (b) for “the Special Commissioners are” substitute “the tribunal is” and for “they” substitute “it”; and
 - (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.
- (4) In subsection (9) for “(appeals against assessments to tax)” substitute “(appeals)”.

.....

Commencement Information

I150 Sch. 1 para. 154 in force at 1.4.2009, see **art. 1(2)**

- 155.**—(1) Section 754 (assessment, recovery and postponement of tax)(**82**) is amended as follows—
- (2) In subsection (3)—
- (a) for “Where” substitute “Subsection (3B) shall apply where”; and
 - (b) for “that appeal shall be to the Special Commissioners” substitute “and the question is one whose resolution is likely to affect the liability of more than one person under this Chapter in respect of the controlled foreign company concerned”.
- (3) Omit subsection (3A).
- (4) In subsection (3B)—
- (a) in paragraph (a) for “to appear and be heard by the Special Commissioners, or to make representations to them in writing” substitute “to be a party to any proceedings”;
 - (b) in paragraph (b) for “Special Commissioners” substitute “tribunal”; and
 - (c) in paragraph (c) for “their” substitute “the tribunal’s”.

.....

Commencement Information

I151 Sch. 1 para. 155 in force at 1.4.2009, see **art. 1(2)**

(81) Section 751B was inserted by section 48 of, and paragraph 5 of Schedule 15 to, the [Finance Act 2007](#) (c. 11).

(82) Section 754 (3B) was inserted by paragraph 9 of Schedule 17 to the [Finance Act 1998](#) (c. 36).

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

F⁴(2)

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

Textual Amendments

F4 Sch. 1 para. 156(2) revoked for specified purposes (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), ss. 1181, 1184(1), **Sch. 3 Pt. 2** (with [Sch. 2](#)); and revoked for all other purposes (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), ss. 378, 381, **Sch. 10 Pt. 9** (with [Sch. 9 paras. 1-9](#))

Commencement Information

I152 [Sch. 1 para. 156](#) in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Commencement Information

I153 [Sch. 1 para. 157](#) in force at 1.4.2009, see [art. 1\(2\)](#)

158. Insofar as paragraph 5 of Schedule 9 (approved share option schemes etc)(**83**) continues to apply it is to have effect as if—

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

Commencement Information

I154 [Sch. 1 para. 158](#) in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I155 [Sch. 1 para. 159](#) in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I156 [Sch. 1 para. 160](#) in force at 1.4.2009, see [art. 1\(2\)](#)

(83) Paragraph 5 of Schedule 9 was repealed by section 722 of, and paragraphs 1 and 112 of Schedule 6 to, the [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#) except so far as relating to profit sharing schemes (see paragraph 71 of Schedule 7 to that Act).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- 161.—(1) Schedule 27 (distributing funds) is amended as follows.
- (2) In paragraph 16(1) omit “to the Special Commissioners”.
- (3) In paragraph 16(2) for “Special Commissioners” substitute “tribunal”.
- (4) In paragraph 19—
 - (a) in sub-paragraph (1) for “In any case” substitute “This paragraph applies”;
 - (b) for the words after sub-paragraph (1)(b) substitute—
 - “(1A) Any person who has been assessed to tax and considers that, if the offshore fund were to be certified as a distributing fund in respect of the accounting period in question, he would be overcharged to tax by the assessment may—
 - (a) first apply in writing to HMRC within 30 days of the date of the issue of the notice of assessment for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the question whether the fund should be so certified;
 - (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.”; and
 - (c) in sub-paragraph (2)—
 - (i) for “A notice of ” substitute “An”;
 - (ii) for “(1)” substitute “(1A)”.
- (5) In paragraph 20 for “Special Commissioners” substitute “tribunal”.

Commencement Information
 I157 Sch. 1 para. 161 in force at 1.4.2009, see art. 1(2)

162.—(1) Paragraph 12 of Schedule 28AA (provision not at arm’s length)(84) is amended as follows.

- ^{F5}(2)
- (3) Omit sub-paragraph (3).
- ^{F6}(4)

Textual Amendments
 F5 Sch. 1 para. 162(2) revoked (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381, Sch. 10 Pt. 2 (with Sch. 9 paras. 1-9)
 F6 Sch. 1 para. 162(4) revoked (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381, Sch. 10 Pt. 2 (with Sch. 9 paras. 1-9)

Commencement Information
 I158 Sch. 1 para. 162 in force at 1.4.2009, see art. 1(2)

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

Textual Amendments

- F1** Sch. 1 para. 133(3) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9)
- F2** Sch. 1 para. 135(2) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9)
- F3** Sch. 1 paras. 150-153 revoked (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F4** Sch. 1 para. 156(2) revoked for specified purposes (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), ss. 1181, 1184(1), **Sch. 3 Pt. 2** (with Sch. 2); and revoked for all other purposes (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), ss. 378, 381, **Sch. 10 Pt. 9** (with Sch. 9 paras. 1-9)
- F5** Sch. 1 para. 162(2) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9)
- F6** Sch. 1 para. 162(4) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9)

Commencement Information

- I132** Sch. 1 para. 132 in force at 1.4.2009, see [art. 1\(2\)](#)
- I133** Sch. 1 para. 133 in force at 1.4.2009, see [art. 1\(2\)](#)
- I134** Sch. 1 para. 134 in force at 1.4.2009, see [art. 1\(2\)](#)
- I135** Sch. 1 para. 135 in force at 1.4.2009, see [art. 1\(2\)](#)
- I136** Sch. 1 para. 136 in force at 1.4.2009, see [art. 1\(2\)](#)
- I137** Sch. 1 para. 137 in force at 1.4.2009, see [art. 1\(2\)](#)
- I138** Sch. 1 para. 138 in force at 1.4.2009, see [art. 1\(2\)](#)
- I139** Sch. 1 para. 139 in force at 1.4.2009, see [art. 1\(2\)](#)
- I140** Sch. 1 para. 140 in force at 1.4.2009, see [art. 1\(2\)](#)
- I141** Sch. 1 para. 141 in force at 1.4.2009, see [art. 1\(2\)](#)
- I142** Sch. 1 para. 142 in force at 1.4.2009, see [art. 1\(2\)](#)
- I143** Sch. 1 para. 143 in force at 1.4.2009, see [art. 1\(2\)](#)
- I144** Sch. 1 para. 144 in force at 1.4.2009, see [art. 1\(2\)](#)
- I145** Sch. 1 para. 145 in force at 1.4.2009, see [art. 1\(2\)](#)
- I146** Sch. 1 para. 146 in force at 1.4.2009, see [art. 1\(2\)](#)
- I147** Sch. 1 para. 147 in force at 1.4.2009, see [art. 1\(2\)](#)
- I148** Sch. 1 para. 148 in force at 1.4.2009, see [art. 1\(2\)](#)
- I149** Sch. 1 para. 149 in force at 1.4.2009, see [art. 1\(2\)](#)
- I150** Sch. 1 para. 154 in force at 1.4.2009, see [art. 1\(2\)](#)
- I151** Sch. 1 para. 155 in force at 1.4.2009, see [art. 1\(2\)](#)
- I152** Sch. 1 para. 156 in force at 1.4.2009, see [art. 1\(2\)](#)
- I153** Sch. 1 para. 157 in force at 1.4.2009, see [art. 1\(2\)](#)
- I154** Sch. 1 para. 158 in force at 1.4.2009, see [art. 1\(2\)](#)
- I155** Sch. 1 para. 159 in force at 1.4.2009, see [art. 1\(2\)](#)
- I156** Sch. 1 para. 160 in force at 1.4.2009, see [art. 1\(2\)](#)
- I157** Sch. 1 para. 161 in force at 1.4.2009, see [art. 1\(2\)](#)
- I158** Sch. 1 para. 162 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1988

163. The Finance Act 1988(85) is amended as follows.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I159 Sch. 1 para. 163 in force at 1.4.2009, see [art. 1\(2\)](#)

F7 164.

Textual Amendments

F7 Sch. 1 para. 164 revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9)

165. Omit sections 133 to 135.

Commencement Information

I160 Sch. 1 para. 165 in force at 1.4.2009, see [art. 1\(2\)](#)

Textual Amendments

F7 Sch. 1 para. 164 revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9)

Commencement Information

I159 Sch. 1 para. 163 in force at 1.4.2009, see [art. 1\(2\)](#)

I160 Sch. 1 para. 165 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1989

166. The Finance Act 1989⁽⁸⁶⁾ is amended as follows.

Commencement Information

I161 Sch. 1 para. 166 in force at 1.4.2009, see [art. 1\(2\)](#)

167. In section 182 (disclosure of information)⁽⁸⁷⁾—

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

⁽⁸⁶⁾ 1989 c. 26.

⁽⁸⁷⁾ Section 182 has been amended. Subsection (2A) was inserted by paragraph 9 of Schedule 6 to the [Social Security Contributions \(Transfer of Functions\) Act 1999 \(c. 2\)](#) and amended by section 59 of, and paragraph 11(1) and (4) of Schedule 5 to, the [Tax Credits Act 2002 \(c. 21\)](#) and section 53 of, and paragraph 1 of Schedule 7 to, the [Employment Act 2002 \(c. 22\)](#). Subsection (2ZA) was substituted for section (2AA) by section 59 of, and paragraph 11(1) and (4) of Schedule 5 to, the [Tax Credits Act 2002](#). Subsection 2ZB was inserted by section 18 of the [Child Trust Funds Act 2004 \(c. 6\)](#).

(d) in subsection (2A)(a)(ii) for “General Commissioners or the Special Commissioners” substitute “the First-tier Tribunal or Upper Tribunal”; and

(e) omit subsection (3).

Commencement Information

I162 Sch. 1 para. 167 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I161 Sch. 1 para. 166 in force at 1.4.2009, see [art. 1\(2\)](#)

I162 Sch. 1 para. 167 in force at 1.4.2009, see [art. 1\(2\)](#)

Courts and Legal Services Act 1990

168. In Schedule 11 to the Courts and Legal Services Act 1990(**88**) (judges etc barred from legal practice) omit the entries for—

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

Commencement Information

I163 Sch. 1 para. 168 in force at 1.4.2009, see [art. 1\(2\)](#)

Social Security Contributions and Benefits Act 1992

169.—(1) The Social Security Contributions and Benefits Act 1992(**89**) is amended as follows.

(2) Paragraph 3B of Schedule 1 (Supplementary provisions etc)(**90**) is amended as follows.

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

(4) In sub-paragraph (9)—

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

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

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

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

Commencement Information

I164 Sch. 1 para. 169 in force at 1.4.2009, see [art. 1\(2\)](#)

(88) 1990 c. 41.

(89) 1992 c. 4.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Social Security Administration Act 1992

170. The Social Security Administration Act 1992⁽⁹¹⁾ is amended as follows.

Commencement Information

I165 Sch. 1 para. 170 in force at 1.4.2009, see [art. 1\(2\)](#)

171.—(1) Section 121D (appeals in relation to personal liability notices)⁽⁹²⁾ is amended as follows.

- (2) In subsection (2) omit “to the Special Commissioners”.
- (3) In subsection (5)—
 - (a) for “the Special Commissioners shall” substitute “and is notified to the tribunal, the tribunal shall”; and
 - (b) for “Special Commissioners see” substitute “tribunal sees”.
- (4) In subsection (6) for the definition of “the Special Commissioners” substitute—

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

Commencement Information

I166 Sch. 1 para. 171 in force at 1.4.2009, see [art. 1\(2\)](#)

172.—(1) Paragraph 2 of Schedule 3A (health in pregnancy grant: civil penalty for fraud, etc)⁽⁹³⁾ is amended as follows.

- (2) In sub-paragraphs (1) and (2) for “an appeal tribunal” substitute “the First-tier Tribunal”.
- (3) For sub-paragraph (3) substitute—
 - “(3) An appeal lies to the Upper Tribunal otherwise than on a point of law from a decision of the First-tier Tribunal under sub-paragraph (2) (unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007).
 - (3A) For an appeal on a point of law, see section 11 of that Act.
 - (3B) An appeal may be brought under sub-paragraph (3) only if, on an application made by the person concerned, the First-tier Tribunal or the Upper Tribunal has given its permission for the appeal to be brought.”.
- (4) In sub-paragraph (4)—
 - (a) for “a Commissioner” substitute “the Upper Tribunal”; and
 - (b) for “an appeal tribunal” substitute “the First-tier Tribunal”.
- (5) Omit sub-paragraph (5).
- (6) In sub-paragraph (6) for “that Act” substitute “the Social Security Act 1998”.

⁽⁹¹⁾ 1992 c. 5.

⁽⁹²⁾ Section 121D was inserted by section 64 of the [Social Security Act 1998 \(c. 14\)](#). Subsections (3), (5) and (6) were amended by section 5 of, and paragraph 11 of Schedule 5 to, the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(c. 2\)](#).

⁽⁹³⁾ Schedule 3A was inserted by section 133(2) of the [Health and Social Care Act 2008 \(c. 14\)](#).

Commencement Information

I167 Sch. 1 para. 172 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I165 Sch. 1 para. 170 in force at 1.4.2009, see [art. 1\(2\)](#)

I166 Sch. 1 para. 171 in force at 1.4.2009, see [art. 1\(2\)](#)

I167 Sch. 1 para. 172 in force at 1.4.2009, see [art. 1\(2\)](#)

Social Security Contributions and Benefits (Northern Ireland) Act 1992

173. The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**94**) is amended as follows.

Commencement Information

I168 Sch. 1 para. 173 in force at 1.4.2009, see [art. 1\(2\)](#)

174.—(1) Paragraph 3B(**95**) of Schedule 1 (prohibition on deduction or recovery of class I contributions) is amended as follows.

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

(3) In sub-paragraph (9)—

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

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

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

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

Commencement Information

I169 Sch. 1 para. 174 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I168 Sch. 1 para. 173 in force at 1.4.2009, see [art. 1\(2\)](#)

I169 Sch. 1 para. 174 in force at 1.4.2009, see [art. 1\(2\)](#)

Social Security Administration (Northern Ireland) Act 1992

175. The Social Security Administration (Northern Ireland) Act 1992(**96**) is amended as follows.

(94) 1992 c. 7.

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

(96) 1992 c. 8 as amended by Schedule 4 to *S.I. 1999/671*.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I170 Sch. 1 para. 175 in force at 1.4.2009, see [art. 1\(2\)](#)

176.—(1) Section 115C⁽⁹⁷⁾ is amended as follows.

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

(3) In subsection (5)—

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

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

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

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

Commencement Information

I171 Sch. 1 para. 176 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I170 Sch. 1 para. 175 in force at 1.4.2009, see [art. 1\(2\)](#)

I171 Sch. 1 para. 176 in force at 1.4.2009, see [art. 1\(2\)](#)

Taxation of Chargeable Gains Act 1992

177. The Taxation of Chargeable Gains Act 1992⁽⁹⁸⁾ is amended as follows.

Commencement Information

I172 Sch. 1 para. 177 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I173 Sch. 1 para. 178 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

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

⁽⁹⁷⁾ Section 115C was inserted by article 60 of S.I. 1998/1506 (N.I. 10) and amended by Schedule 4 to S.I. 1999/671.

⁽⁹⁸⁾ 1992 c. 12.

Commencement Information

I174 Sch. 1 para. 179 in force at 1.4.2009, see [art. 1\(2\)](#)

180. In section 211ZA(9) (transfers of business: transfer of unused losses)(**99**) for “by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing” substitute “in the same manner as an appeal, and both the transferor and the transferee shall be entitled to be a party to any proceedings”.

Commencement Information

I175 Sch. 1 para. 180 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I176 Sch. 1 para. 181 in force at 1.4.2009, see [art. 1\(2\)](#)

182. In section 261B(4)(a) (treating trade loss etc as CGT loss)(**100**) for “Commissioners” substitute “tribunal”.

Commencement Information

I177 Sch. 1 para. 182 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Commencement Information

I178 Sch. 1 para. 183 in force at 1.4.2009, see [art. 1\(2\)](#)

184. In section 288(1) (interpretation) after the definition of “trading stock” insert—
““the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

Commencement Information

I179 Sch. 1 para. 184 in force at 1.4.2009, see [art. 1\(2\)](#)

(**99**) Section 211ZA was inserted by section 170 of, and paragraph 21 of Schedule 33 to, the [Finance Act 2003 \(c. 14\)](#).

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

- I172 Sch. 1 para. 177 in force at 1.4.2009, see [art. 1\(2\)](#)
- I173 Sch. 1 para. 178 in force at 1.4.2009, see [art. 1\(2\)](#)
- I174 Sch. 1 para. 179 in force at 1.4.2009, see [art. 1\(2\)](#)
- I175 Sch. 1 para. 180 in force at 1.4.2009, see [art. 1\(2\)](#)
- I176 Sch. 1 para. 181 in force at 1.4.2009, see [art. 1\(2\)](#)
- I177 Sch. 1 para. 182 in force at 1.4.2009, see [art. 1\(2\)](#)
- I178 Sch. 1 para. 183 in force at 1.4.2009, see [art. 1\(2\)](#)
- I179 Sch. 1 para. 184 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance (No 2) Act 1992

185. The Finance (No 2) Act 1992(101) is amended as follows.

Commencement Information

- I180 Sch. 1 para. 185 in force at 1.4.2009, see [art. 1\(2\)](#)

186. Omit—

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

Commencement Information

- I181 Sch. 1 para. 186 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In sub-paragraph (2)—

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

(3) Omit sub-paragraph (3).

Commencement Information

- I182 Sch. 1 para. 187 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

- I180 Sch. 1 para. 185 in force at 1.4.2009, see [art. 1\(2\)](#)
- I181 Sch. 1 para. 186 in force at 1.4.2009, see [art. 1\(2\)](#)
- I182 Sch. 1 para. 187 in force at 1.4.2009, see [art. 1\(2\)](#)

Tribunals and Inquiries Act 1992

188. In Schedule 1 to the Tribunals and Inquiries Act 1992(**102**) (tribunals under general supervision of council)—

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

Commencement Information

I183 Sch. 1 para. 188 in force at 1.4.2009, see [art. 1\(2\)](#)

Judicial Pensions and Retirement Act 1993

189. The Judicial Pensions and Retirement Act 1993(**103**) is amended as follows.

Commencement Information

I184 Sch. 1 para. 189 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

Commencement Information

I185 Sch. 1 para. 190 in force at 1.4.2009, see [art. 1\(2\)](#)

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

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

(102) 1992 c. 53. Paragraph 39 was amended by paragraph 351 of Part 2 of Schedule 1 to the [Income Tax Act 2007 \(c. 1\)](#). Paragraph 44 was substituted by paragraph 12 of Schedule 14 to the [Value Added Tax Act 1994 \(c. 23\)](#). Paragraph 63 was substituted by section 7(7) of the [Finance Act 1994 \(c. 9\)](#) and amended by paragraph 12 of Schedule 14 to the [Value Added Tax Act 1994 \(c. 23\)](#).

(103) 1993 c. 8.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (e) Commissioner for the general purposes of the income tax appointed under section 2 of the Taxes Management Act 1970; and
- (f) Chairman or other member of the tribunal constituted by section 706 of the Income and Corporation Taxes Act 1988.

Commencement Information

I186 Sch. 1 para. 191 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I184 Sch. 1 para. 189 in force at 1.4.2009, see [art. 1\(2\)](#)

I185 Sch. 1 para. 190 in force at 1.4.2009, see [art. 1\(2\)](#)

I186 Sch. 1 para. 191 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1993

192. The Finance Act 1993(**104**) is amended as follows.

Commencement Information

I187 Sch. 1 para. 192 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In subsection (5)—

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

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

Commencement Information

I188 Sch. 1 para. 193 in force at 1.4.2009, see [art. 1\(2\)](#)

194.—(1) Schedule 20A (PRT: elections for oil fields to become non-taxable)(**105**) is amended as follows.

(2) Omit paragraph 11(2).

(3) After paragraph 11(2) insert—

“(3) The provisions of paragraphs 14A to 14I of Schedule 2 to OTA 1975(**106**) shall apply in relation to an appeal under paragraphs 9 or 10 above as they apply in relation to an appeal against an assessment or determination made under that Act, subject to any necessary modifications.”.

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

(**104**) 1993 c. 34.

(**105**) Schedule 20A was inserted by section 107 of, and Schedule 33 to, the [Finance Act 2008](#) (c. 9).

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

Commencement Information

I189 Sch. 1 para. 194 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) In paragraph 3(2)—

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

(3) In paragraph 6—

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

Commencement Information

I190 Sch. 1 para. 195 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I187 Sch. 1 para. 192 in force at 1.4.2009, see [art. 1\(2\)](#)

I188 Sch. 1 para. 193 in force at 1.4.2009, see [art. 1\(2\)](#)

I189 Sch. 1 para. 194 in force at 1.4.2009, see [art. 1\(2\)](#)

I190 Sch. 1 para. 195 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1994

196. The Finance Act 1994(**107**) is amended as follows.

Commencement Information

I191 Sch. 1 para. 196 in force at 1.4.2009, see [art. 1\(2\)](#)

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

(2) For the heading (and for the cross-heading preceding section 7) and section 7(**108**) substitute—

(**107**)1994 c. 9.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

“The meaning of tribunal

7 Meaning of tribunal

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

Commencement Information

1192 Sch. 1 para. 197 in force at 1.4.2009, see [art. 1\(2\)](#)

198. Before section 14 insert—

“13A Meaning of “relevant decision”

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

- (g) any decision by HMRC made by virtue of regulations under paragraph 4(2)(i) of that Schedule that some or all of a payment made, or security provided, is forfeit, or the amount which is so forfeit;
- (h) so much of any decision by HMRC that a person is liable to any penalty under any of the provisions of this Chapter, or as to the amount of his liability, as is contained in any assessment under section 13 above;
- (i) any decision as to whether or not—
 - (i) an amount due in respect of customs duty or agricultural levy, or
 - (ii) any repayment by HMRC of an amount paid by way of customs duty or agricultural levy,
is to carry interest, or as to the rate at which, or period for which, any such amount is to carry interest;
- (j) any decision by HMRC which is of a description specified in Schedule 5 to this Act, except for any decision under section 152(b) of the Management Act as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored.”.

Commencement Information

I193 Sch. 1 para. 198 in force at 1.4.2009, see [art. 1\(2\)](#)

199.—(1) Section 14 (requirement for review of a decision)(**109**) is amended as follows.

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

(3) In subsection (1)—

- (a) after “following decisions” insert “by HMRC”, and
- (b) for paragraphs (a) to (d) substitute—

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

(4) After subsection (2) insert—

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

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

Commencement Information

I194 Sch. 1 para. 199 in force at 1.4.2009, see [art. 1\(2\)](#)

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

200. After section 14 insert—

“14A Review out of time

- (1) This section applies if—
 - (a) a person may, under section 14(2), require HMRC to review a decision, and
 - (b) the person gives notice requiring such a review after the end of the 45 day period mentioned in section 14(3).
- (2) HMRC are required to carry out a review of the decision in either of the following cases.
- (3) The first case is where HMRC are satisfied that—
 - (a) there was a reasonable excuse for not giving notice requiring a review before the end of that 45 day period, and
 - (b) the notice given after the end of that period was given without unreasonable delay after that excuse ceased.
- (4) The second case is where—
 - (a) HMRC are not satisfied as mentioned in subsection (3), and
 - (b) the appeal tribunal, on application made by the person, orders HMRC to carry out a review.
- (5) A person may require HMRC to review a decision falling within section 14(1)(b) only if HMRC are also required to review the decision within section 14(1)(a) to which it is linked.
- (6) Section 14(5) applies to notices given under this section as it applies to notices given under section 14.”.

Commencement Information

I195 Sch. 1 para. 200 in force at 1.4.2009, see [art. 1\(2\)](#)

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

- (2) In subsection (1) for “this Chapter” substitute “section 14 or 14A”.
- (3) In subsection (2)—
 - (a) in paragraph (a), after “section 14” insert “or 14A”; and
 - (b) in the words after paragraph (b), for “this Chapter” substitute “section 14 or 14A”.

Commencement Information

I196 Sch. 1 para. 201 in force at 1.4.2009, see [art. 1\(2\)](#)

202. After section 15 insert—

“15A Offer of review of relevant decision

- (1) If HMRC notify a person (P) of a relevant decision by HMRC, HMRC must at the same time, by notice to P, offer P a review of the decision.
- (2) This section does not apply to the notification of the conclusions of a review.

15B Right to require review

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

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

(3) Condition A is that—

- (a) the relevant decision falls within section 14(1)(b) (decision linked to decision under section 152(b) of the Management Act about things forfeited or seized), and
- (b) under section 15, HMRC are reviewing, or have reviewed, the decision under section 152(b) of the Management Act to which the relevant decision is linked.

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

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

15C Review by HMRC

(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under section 15A, and
- (b) P notifies HMRC of acceptance of the offer within 30 days beginning with the date of the document containing the notification of the offer of the review.

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

(3) Condition A is that—

- (a) the relevant decision falls within section 14(1)(b) (decision linked to decision under section 152(b) of the Management Act about things forfeited or seized), and
- (b) under section 15, HMRC are reviewing, or have reviewed, the decision under section 152(b) of the Management Act to which the relevant decision is linked.

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

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

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

15D Extensions of time

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

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

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

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

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

- (a) the period of 30 days referred to in—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

15E Review out of time

- (1) This section applies if—
 - (a) HMRC have offered a review of a decision under section 15A and P does not accept the offer within the time allowed under section 15C(1) or 15D(1); or
 - (b) a person who requires a review under section 15B does not notify HMRC within the time allowed under that section or section 15D(3).
- (2) HMRC must review the decision if—
 - (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
 - (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not be required to review a decision under this section if Condition A is met (see sections 15B(3) and 15C(3)).
- (4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 16 in respect of the decision.

15F Nature of review etc

- (1) This section applies if HMRC are required to undertake a review under section 15C or 15E.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purposes of subsection (2) HMRC must, in particular, have regard to steps taken before the beginning of the review—
 - (a) by HMRC in making the decision, and
 - (b) by any person who is seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
 - (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
 - (a) the period of 45 days beginning with the relevant date, or
 - (b) such other period as HMRC and P, or the other person, may agree.
- (7) In subsection (6) “relevant date” means—

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

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

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

Commencement Information

1197 Sch. 1 para. 202 in force at 1.4.2009, see [art. 1\(2\)](#)

203.—(1) Section 16 (appeals to a tribunal)(**110**) is amended as follows.

(2) For subsection (1) substitute—

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

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

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

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

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

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

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

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

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

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

(3) In subsection (2) after “section” insert—
“with respect to a decision falling within subsection (1) or (1A)”.

(4) After subsection (2) insert—

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

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

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

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

(6) After subsection (3A) insert—

“(3B) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(**111**) shall have effect as if—

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

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

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

(9) After subsection (10) insert—

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

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

(111) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

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

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

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

Commencement Information

I198 [Sch. 1 para. 203](#) in force at 1.4.2009, see [art. 1\(2\)](#)

204. In section 17(2) (interpretation) after the entry for “the Community Customs Code” insert—
““HMRC” means Her Majesty’s Revenue and Customs;”.

Commencement Information

I199 [Sch. 1 para. 204](#) in force at 1.4.2009, see [art. 1\(2\)](#)

205.—(1) Section 59 (insurance premium tax: review of Commissioners’ decisions)(**112**) is amended as follows.

- (2) For the heading substitute “Appeals”.
- (3) For the first paragraph of subsection (1) substitute—

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

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

Commencement Information

I200 [Sch. 1 para. 205](#) in force at 1.4.2009, see [art. 1\(2\)](#)

206. After section 59 insert—

“59A Offer of review

- (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 59 in respect of the decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This section does not apply to the notification of the conclusions of a review.

(112) Section 59 was amended by paragraphs 5(3) and (4) of Schedule 5 to the [Finance Act 1995 \(c. 4\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

59B Right to require review

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

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

59C Review by HMRC

(1) HMRC must review a decision if—

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

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 59G.

(3) HMRC must review a decision if a person other than P notifies them under section 59B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 59G in respect of the decision.

59D Extensions of time

(1) If under section 59A HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 59B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

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

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

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

- (a) the period of 30 days referred to in—
 - (i) section 59C(1)(b) (in a case falling within subsection (1)), or
 - (ii) section 59B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

59E Review out of time

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 59A and P does not accept the offer within the time allowed under section 59C(1)(b) or 59D(3); or
- (b) a person who requires a review under section 59B does not notify HMRC within the time allowed under that section or section 59D(3).

(2) HMRC must review the decision under section 59C if—

- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,

- (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 59G in respect of the decision.

59F Nature of review etc

(1) This section applies if HMRC are required to undertake a review under section 59C or 59E.

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

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

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

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

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

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

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

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

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

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 59A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 59B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 59E).

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

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

59G Bringing of appeals

(1) An appeal under section 59 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 59D).
- (2) But that is subject to subsections (3) to (5).
- (3) In a case where HMRC are required to undertake a review under section 59C—
 - (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of section 59E—
 - (a) an appeal may not be made—
 - (i) unless HMRC have decided whether or not to undertake a review, and
 - (ii) if HMRC decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if HMRC decide to undertake a review), or
 - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where section 59F(8) applies, an appeal may be made at any time from the end of the period specified in section 59F(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in subsection (1), (3) (b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this section “conclusion date” means the date of the document notifying the conclusion of the review.”.

Commencement Information

I201 Sch. 1 para. 206 in force at 1.4.2009, see [art. 1\(2\)](#)

- 207.**—(1) Section 60 (appeals) is amended as follows.
- (2) For the heading substitute “Further provisions relating to appeals”.
 - (3) Omit subsection (1).
 - (4) In subsection (2) for “subsection (1)” substitute “section 59”.
 - (5) Omit subsection (3).
 - (6) For subsection (4) substitute—
 - “(4) Subject to subsections (4A) and (4B), where the appeal is against the decisions with respect to any of the matters mentioned in section 59(1)(b) and (d), it shall not be entertained unless the amount which HMRC have determined to be payable as tax has been paid or deposited with them.
 - (4A) In a case where the amount determined to be payable as tax has not been paid or deposited an appeal shall be entertained if—
 - (a) HMRC are satisfied (on the application of the appellant), or
 - (b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),
 that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(4B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

(7) In subsection (6) “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996(113)”.

(8) In subsection (7) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

(9) In subsection (8)—

(a) for “the Commissioners” substitute “HMRC”; and

(b) for “the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.” substitute “it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996.”.

(10) After subsection (8) insert—

“(8A) Interest under subsection (8) shall be paid without any deduction of income tax.”.

(11) In subsection (9) for “the Commissioners” substitute “HMRC”.

(12) For subsection (10) substitute—

“(10) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(114) shall have effect as if—

(a) the references to section 83 of that Act included references to section 59 above, and

(b) the references to value added tax included references to insurance premium tax.”.

Commencement Information

I202 Sch. 1 para. 207 in force at 1.4.2009, see [art. 1\(2\)](#)

208.—(1) Section 73(1) (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute—

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

(b) after the definition of “the higher rate” insert—

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

Commencement Information

I203 Sch. 1 para. 208 in force at 1.4.2009, see [art. 1\(2\)](#)

209.—(1) Schedule 6 (air passenger duty: administration and enforcement) is amended as follows.

(2) In paragraph 6 after “any return” insert “for an accounting period to which the appeal relates”.

(113) 1996 c. 8.

(114) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

(3) In paragraph 8(1) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.

Commencement Information

I204 Sch. 1 para. 209 in force at 1.4.2009, see [art. 1\(2\)](#)

210. Schedule 22 (supplementary provisions as to elections by reference to pipe-line usage) is amended as follows.

Commencement Information

I205 Sch. 1 para. 210 in force at 1.4.2009, see [art. 1\(2\)](#)

211.—(1) Paragraph 4 is amended as follows.

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

(3) In sub-paragraph (3) for “Commissioners”, in both places, substitute “tribunal”.

(4) In sub-paragraph (4)—

(a) for “Commissioners” (in the first place it appears) substitute “tribunal”;

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

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

(5) For sub-paragraph (5) substitute—

“(5) In an appeal under sub-paragraph (1)—

(a) paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2(**115**) to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;

(b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (3) above.”.

Commencement Information

I206 Sch. 1 para. 211 in force at 1.4.2009, see [art. 1\(2\)](#)

212. In paragraph 7(5)(b) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I207 Sch. 1 para. 212 in force at 1.4.2009, see [art. 1\(2\)](#)

213.—(1) Paragraph 8 is amended as follows—

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

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

(4) In sub-paragraphs (6)(b) and (7) for “Special Commissioners” substitute “tribunal”.

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

(5) After sub-paragraph (8) insert—

“(9) In an appeal under sub-paragraph (2)—

- (a) paragraphs 14A to 14I of Schedule 2 to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;
- (b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (6) above.”.

Commencement Information

I208 Sch. 1 para. 213 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I191 Sch. 1 para. 196 in force at 1.4.2009, see [art. 1\(2\)](#)

I192 Sch. 1 para. 197 in force at 1.4.2009, see [art. 1\(2\)](#)

I193 Sch. 1 para. 198 in force at 1.4.2009, see [art. 1\(2\)](#)

I194 Sch. 1 para. 199 in force at 1.4.2009, see [art. 1\(2\)](#)

I195 Sch. 1 para. 200 in force at 1.4.2009, see [art. 1\(2\)](#)

I196 Sch. 1 para. 201 in force at 1.4.2009, see [art. 1\(2\)](#)

I197 Sch. 1 para. 202 in force at 1.4.2009, see [art. 1\(2\)](#)

I198 Sch. 1 para. 203 in force at 1.4.2009, see [art. 1\(2\)](#)

I199 Sch. 1 para. 204 in force at 1.4.2009, see [art. 1\(2\)](#)

I200 Sch. 1 para. 205 in force at 1.4.2009, see [art. 1\(2\)](#)

I201 Sch. 1 para. 206 in force at 1.4.2009, see [art. 1\(2\)](#)

I202 Sch. 1 para. 207 in force at 1.4.2009, see [art. 1\(2\)](#)

I203 Sch. 1 para. 208 in force at 1.4.2009, see [art. 1\(2\)](#)

I204 Sch. 1 para. 209 in force at 1.4.2009, see [art. 1\(2\)](#)

I205 Sch. 1 para. 210 in force at 1.4.2009, see [art. 1\(2\)](#)

I206 Sch. 1 para. 211 in force at 1.4.2009, see [art. 1\(2\)](#)

I207 Sch. 1 para. 212 in force at 1.4.2009, see [art. 1\(2\)](#)

I208 Sch. 1 para. 213 in force at 1.4.2009, see [art. 1\(2\)](#)

Vehicle Excise and Registration Act 1994

214. The Vehicle Excise and Registration Act 1994(**116**) is amended as follows.

Commencement Information

I209 Sch. 1 para. 214 in force at 1.4.2009, see [art. 1\(2\)](#)

215. In section 7B(3)(b) (section 7A supplements: further provisions)(**117**) for “14 to 16” substitute “13A to 16”.

(116) 1994 c. 22.

(117) Section 7B was inserted by section 19(1) of, and paragraphs 1 and 5 of Schedule 5 to, the [Finance Act 2002 \(c. 23\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I210 Sch. 1 para. 215 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I209 Sch. 1 para. 214 in force at 1.4.2009, see [art. 1\(2\)](#)

I210 Sch. 1 para. 215 in force at 1.4.2009, see [art. 1\(2\)](#)

Value Added Tax Act 1994

216. The Value Added Tax Act 1994(**118**) is amended as follows.

Commencement Information

I211 Sch. 1 para. 216 in force at 1.4.2009, see [art. 1\(2\)](#)

217. For the heading of Part 5 (appeals) substitute “Reviews and Appeals”.

Commencement Information

I212 Sch. 1 para. 217 in force at 1.4.2009, see [art. 1\(2\)](#)

218. For section 82 (appeal tribunals) substitute—

“82 Meaning of “tribunal”

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

Commencement Information

I213 Sch. 1 para. 218 in force at 1.4.2009, see [art. 1\(2\)](#)

219.—(1) Section 83 (appeals)(**119**) is amended as follows.

- (2) Before “Subject to” insert “(1)”.
- (3) For “section 84” substitute “sections 83G and 84”.
- (4) For “a tribunal” substitute “the tribunal”.
- (5) After paragraph (zc) insert—

(118) 1994 c. 23.

(119) Section 83 has been amended by section 31(3) of, and paragraph 12 of Schedule 3 to, the [Finance Act 1996](#) (c. 8), sections 45(2), 46(3) and 47(7) of the [Finance Act 1997](#) (c. 16), paragraphs 3 and 6 of Schedule 2 to the [Finance Act 1999](#) (c. 16), section 137 of the [Finance Act 2000](#) (c. 17), sections 23(2) and 24(4)(b) of the [Finance Act 2002](#) (c. 23), sections 17 and 18(2) of the [Finance Act 2003](#) (c. 14), section 22(3) of, and paragraph 4 of Part 2 of Schedule 2 to, the [Finance Act 2004](#) (c. 12), section 5 of the [Finance \(No 2\) Act 2005](#) (c. 22), section 21 of the [Finance Act 2006](#) (c. 25), section 93(8) of the [Finance Act 2007](#) (c. 11), article 2 of S.I. 1997/2542, regulation 17 of S.I. 2001/3641, paragraph 1(1) of Schedule 2 to S.I. 2003/3075, paragraph 1 of Schedule 6 to S.I. 2007/2157 and article 3 of S.I. 2008/1146.

“(2) In the following provisions of this Part, a reference to a decision with respect to which an appeal under this section lies, or has been made, includes any matter listed in subsection (1) whether or not described there as a decision.”.

Commencement Information

I214 Sch. 1 para. 219 in force at 1.4.2009, see [art. 1\(2\)](#)

220. After section 83 (appeals) insert—

“83A Offer of review

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 83 in respect of the decision.

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

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

83B Right to require review

(1) Any person (other than P) who has the right of appeal under section 83 against a decision may require HMRC to review that decision if that person has not appealed to the tribunal under section 83G.

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

83C Review by HMRC

(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under section 83A, and
- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under section 83G.

(3) HMRC must review a decision if a person other than P notifies them under section 83B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

83D Extensions of time

(1) If under section 83A HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under section 83B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (a) the period of 30 days referred to in—
 - (i) section 83C(1)(b) (in a case falling within subsection (1)), or
 - (ii) section 83B(2) (in a case falling within subsection (2)), or
- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

83E Review out of time

- (1) This section applies if—
 - (a) HMRC have offered a review of a decision under section 83A and P does not accept the offer within the time allowed under section 83C(1)(b) or 83D(3); or
 - (b) a person who requires a review under section 83B does not notify HMRC within the time allowed under that section or section 83D(3).
- (2) HMRC must review the decision under section 83C if—
 - (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
 - (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

83F Nature of review etc

- (1) This section applies if HMRC are required to undertake a review under section 83C or 83E.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
 - (a) by HMRC in reaching the decision, and
 - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
 - (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
 - (a) a period of 45 days beginning with the relevant date, or
 - (b) such other period as HMRC and P, or the other person, may agree.
- (7) In subsection (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 83A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 83B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 83E).

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

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

83G Bringing of appeals

- (1) An appeal under section 83 is to be made to the tribunal before—
 - (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
 - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
 - (b) if later, the end of the relevant period (within the meaning of section 83D).
- (2) But that is subject to subsections (3) to (5).
- (3) In a case where HMRC are required to undertake a review under section 83C—
 - (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review in accordance with section 83E—
 - (a) an appeal may not be made—
 - (i) unless HMRC have decided whether or not to undertake a review, and
 - (ii) if HMRC decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if HMRC decide to undertake a review), or
 - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where section 83F(8) applies, an appeal may be made at any time from the end of the period specified in section 83F(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in subsection (1), (3) (b), (4)(b) or (5) if the tribunal gives permission to do so.
- (7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.”.

Commencement Information

I215 Sch. 1 para. 220 in force at 1.4.2009, see **art. 1(2)**

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- 221.**—(1) Section 84 (further provisions relating to appeals)(**120**) is amended as follows.
- (2) Omit subsection (2).
- (3) For subsection (3) substitute—
- “(3) Subject to subsections (3B) and (3C), where the appeal is against a decision with respect to any of the matters mentioned in section 83(1)(b), (n), (p), (q), (ra) or (zb), it shall not be entertained unless the amount which HMRC have determined to be payable as VAT has been paid or deposited with them.”.
- (4) For subsection (3A) substitute—
- “(3A) Subject to subsections (3B) and (3C), where the appeal is against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, it shall not be entertained unless the amount notified by the assessment has been paid or deposited with HMRC.”.
- (5) After subsection (3A) insert—
- “(3B) In a case where the amount determined to be payable as VAT or the amount notified by the recovery assessment has not been paid or deposited an appeal shall be entertained if—
- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the tribunal decides (HMRC not being so satisfied and on the application of the appellant),
- that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.
- (3C) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.”.
- (6) In subsection (4) in paragraphs (a) and (b) and in the words following paragraph (c) for “the Commissioners” substitute “HMRC”.
- (7) In subsections (4ZA), (4A)(a), (4C), (4D), (7), (7ZA) and (7B) for “the Commissioners” substitute “HMRC”.
- (8) In subsections (4ZA)(a), (5), (6), (6A), (6B), (7), (7A), (7ZA) and (7B) for “83” substitute “83(1)”.
- (9) In subsection (4E) for “the Commissioners satisfy” substitute “HMRC satisfies”.
- (10) Omit subsection (8).
- (11) In subsection (9)—
- (a) after “section 14” add “or 15A”;
- (b) in paragraph (b) for “the Commissioners” substitute “HMRC”;
- (c) at the end of paragraph (b) insert “and”; and
- (d) after paragraph (b) insert—
- “(c) a review is not being undertaken following a request under section 14A of that Act; and
- (d) a review is not being undertaken under section 15 of that Act as a consequence of section 15B(3), 15C(3) or 15E(3) of that Act.”.
- (12) In subsection (10)—

(120) Section 84 has been amended by sections 31 and 162 of, and Part VI of Schedule 29 to, the [Finance Act 1995 \(c. 4\)](#), section 31(4) of the [Finance Act 1996 \(c. 8\)](#), sections 31(3) and 45(3) of the [Finance Act 1997 \(c. 36\)](#), paragraph 4 of Schedule 2 to the [Finance Act 1999 \(c. 16\)](#), section 23(3) of the [Finance Act 2002 \(c. 23\)](#), section 17(7) and 18(3) of the [Finance Act 2003 \(c. 14\)](#), paragraph 5 of Schedule 2 to the [Finance Act 2004 \(c. 12\)](#), sections 21(1) and (5) of the [Finance Act 2006 \(c. 25\)](#), section 93(9) of the [Finance Act 2007 \(c. 11\)](#) and article 3(1) of [2008/1146](#).

- (a) for “a decision of the Commissioners” substitute “an HMRC decision”;
- (b) omit “by them”.

Commencement Information

I216 Sch. 1 para. 221 in force at 1.4.2009, see [art. 1\(2\)](#)

222.—(1) Section 85 (settling appeals by agreement) is amended as follows.

- (2) In subsection (1) at the end, omit “(including any terms as to costs)”.
- (3) For “the Commissioners” (in each place) substitute “HMRC”.

Commencement Information

I217 Sch. 1 para. 222 in force at 1.4.2009, see [art. 1\(2\)](#)

223. After section 85 insert—

“85A Payment of tax on determination of appeal

- (1) This section applies where the tribunal has determined an appeal under section 83.
- (2) Where on the appeal the tribunal has determined that—
 - (a) the whole or part of any disputed amount paid or deposited is not due, or
 - (b) the whole or part of any VAT credit due to the appellant has not been paid,so much of that amount, or of that credit, as the tribunal determines not to be due or not to have been paid shall be paid or repaid with interest at the rate applicable under section 197 of the Finance Act 1996(**121**).
- (3) Where on the appeal the tribunal has determined that—
 - (a) the whole or part of any disputed amount not paid or deposited is due, or
 - (b) the whole or part of any VAT credit paid was not payable,so much of that amount, or of that credit, as the tribunal determines to be due or not payable shall be paid or repaid to HMRC with interest at the rate applicable under section 197 of the Finance Act 1996.
- (4) Interest under subsection (3) shall be paid without any deduction of income tax.
- (5) Nothing in this section requires HMRC to pay interest—
 - (a) on any amount which falls to be increased by a supplement under section 79 (repayment supplement in respect of certain delayed payments or refunds); or
 - (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

85B Payment of tax where there is a further appeal

- (1) Where a party makes a further appeal, notwithstanding that the further appeal is pending, value added tax or VAT credits, or a credit of overstated or overpaid value added tax shall be payable or repayable in accordance with the determination of the tribunal or court against which the further appeal is made.

(121)1996 c. 8.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

(2) But if the amount payable or repayable is altered by the order or judgment of the tribunal or court on the further appeal—

- (a) if too much value added tax has been paid or the whole or part of any VAT credit due to the appellant has not been paid the amount overpaid or not paid shall be refunded with such interest, if any, as the tribunal or court may allow; and
- (b) if too little value added tax has been charged or the whole or part of any VAT credit paid was not payable so much of the amount as the tribunal or court determines to be due or not payable shall be due or repayable, as appropriate, at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment of that tribunal or court.

(3) If, on the application of HMRC, the relevant tribunal or court considers it necessary for the protection of the revenue, subsection (1) shall not apply and the relevant tribunal or court may—

- (a) give permission to withhold any payment or repayment; or
- (b) require the provision of adequate security before payment or repayment is made.

(4) If, on the application of the original appellant, HMRC are satisfied that financial extremity might be reasonably expected to result if payment or repayment is required or withheld as appropriate, HMRC may do one or more of the things listed in subsection (6).

(5) If on the application of the original appellant, the relevant tribunal or court decides that—

- (a) the original appellant has applied to HMRC under subsection (4),
- (b) HMRC have decided that application,
- (c) financial extremity might be reasonably expected to result from that decision by HMRC,

the relevant tribunal or court may replace, vary or supplement the decision by HMRC by doing one or more of the things listed in subsection (6).

(6) These are the things which HMRC or the relevant tribunal or court may do under subsection (4) or (5)—

- (a) decide how much, if any, of the amount under appeal should be paid or repaid as appropriate,
- (b) require the provision of adequate security from the original appellant,
- (c) stay the requirement to pay or repay under subsection (1).

(7) Subsections (3) to (6) cease to have effect when the further appeal has been determined.

(8) In this section—

“adequate security” means security that is of such amount and given in such manner—

- (a) as the tribunal or court may determine (in a case falling within subsection (3) or (5)), or
- (b) as HMRC consider adequate to protect the revenue (in a case falling within subsection (4));

“further appeal” means an appeal against—

- (a) the tribunal’s determination of an appeal under section 83, or
- (b) a decision of the Upper Tribunal or a court that arises (directly or indirectly) from that determination;

“original appellant” means the person who made the appeal to the tribunal under section 83;

“relevant tribunal or court” means the tribunal or court from which permission or leave to appeal is sought.”.

Commencement Information

I218 [Sch. 1 para. 223](#) in force at 1.4.2009, see [art. 1\(2\)](#)

224. Omit sections 86 and 87.

Commencement Information

I219 [Sch. 1 para. 224](#) in force at 1.4.2009, see [art. 1\(2\)](#)

225. In section 96(1) (other interpretative provisions) before the definition of “invoice” insert—
““HMRC” means Her Majesty’s Revenue and Customs;”.

Commencement Information

I220 [Sch. 1 para. 225](#) in force at 1.4.2009, see [art. 1\(2\)](#)

226.—(1) Section 97 (orders, rules and regulations) is amended as follows.

(2) In subsection (1) after “the Treasury” omit “or the Lord Chancellor”,

(3) Omit subsection (2).

Commencement Information

I221 [Sch. 1 para. 226](#) in force at 1.4.2009, see [art. 1\(2\)](#)

227. For paragraph 20(2) of Schedule 3B (supply of electronic services in member states: special accounting scheme) substitute—

“(2) Part 5 (appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).”

Commencement Information

I222 [Sch. 1 para. 227](#) in force at 1.4.2009, see [art. 1\(2\)](#)

228. Omit Schedule 12.

Commencement Information

I223 [Sch. 1 para. 228](#) in force at 1.4.2009, see [art. 1\(2\)](#)

229. Omit paragraph 12 of Schedule 14.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I224 Sch. 1 para. 229 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I211 Sch. 1 para. 216 in force at 1.4.2009, see [art. 1\(2\)](#)
I212 Sch. 1 para. 217 in force at 1.4.2009, see [art. 1\(2\)](#)
I213 Sch. 1 para. 218 in force at 1.4.2009, see [art. 1\(2\)](#)
I214 Sch. 1 para. 219 in force at 1.4.2009, see [art. 1\(2\)](#)
I215 Sch. 1 para. 220 in force at 1.4.2009, see [art. 1\(2\)](#)
I216 Sch. 1 para. 221 in force at 1.4.2009, see [art. 1\(2\)](#)
I217 Sch. 1 para. 222 in force at 1.4.2009, see [art. 1\(2\)](#)
I218 Sch. 1 para. 223 in force at 1.4.2009, see [art. 1\(2\)](#)
I219 Sch. 1 para. 224 in force at 1.4.2009, see [art. 1\(2\)](#)
I220 Sch. 1 para. 225 in force at 1.4.2009, see [art. 1\(2\)](#)
I221 Sch. 1 para. 226 in force at 1.4.2009, see [art. 1\(2\)](#)
I222 Sch. 1 para. 227 in force at 1.4.2009, see [art. 1\(2\)](#)
I223 Sch. 1 para. 228 in force at 1.4.2009, see [art. 1\(2\)](#)
I224 Sch. 1 para. 229 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1995

230. The Finance Act 1995(**122**) is amended as follows.

Commencement Information

I225 Sch. 1 para. 230 in force at 1.4.2009, see [art. 1\(2\)](#)

231.—(1) Section 5(4) (denatured alcohol) is amended as follows.

(2) For “14 to 16” substitute “13A to 16”.

(3) For “specified in Schedule 5 to that Act” substitute “falling within section 13A(2)(j) of that Act”.

Commencement Information

I226 Sch. 1 para. 231 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I225 Sch. 1 para. 230 in force at 1.4.2009, see [art. 1\(2\)](#)
I226 Sch. 1 para. 231 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1996

232. The Finance Act 1996(**123**) is amended as follows.

Commencement Information

I227 Sch. 1 para. 232 in force at 1.4.2009, see [art. 1\(2\)](#)

233. For section 46(2)(c) (power to vary) substitute—

“(c) provide for reviews and appeals relating to decisions about certificates.”.

Commencement Information

I228 Sch. 1 para. 233 in force at 1.4.2009, see [art. 1\(2\)](#)

234.—(1) Section 54 (landfill tax: review of commissioners’ decisions)(**124**) is amended as follows.

(2) For the heading, substitute “Appeals”.

(3) For “This section applies to the following decisions of the Commissioners” substitute “Subject to section 55, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any of the following decisions—”

(4) Omit subsections (3) to (8).

Commencement Information

I229 Sch. 1 para. 234 in force at 1.4.2009, see [art. 1\(2\)](#)

235. After section 54 insert—

“54A Offer of review

(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 54 in respect of the decision.

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

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

54B Right to require review

(1) Any person (other than P) who has the right of appeal under section 54 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under section 54G.

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

(123) 1996 c. 8.

(124) Section 54 was amended by [S.I. 1996/1529](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

54C Review by HMRC

- (1) HMRC must review a decision if—
 - (a) they have offered a review of the decision under section 54A, and
 - (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 54G.
- (3) HMRC must review a decision if a person other than P notifies them under section 54B.
- (4) HMRC shall not be required to review a decision if P, or another person, has appealed to the appeal tribunal under section 54G in respect of the decision.

54D Extensions of time

- (1) If under section 54A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If under section 54B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.
- (3) If notice is given the relevant period is extended to the end of 30 days from—
 - (a) the date of the notice, or
 - (b) any other date set out in the notice or a further notice.
- (4) In this section “relevant period” means—
 - (a) the period of 30 days referred to in—
 - (i) section 54C(1)(b) (in a case falling within subsection (1)), or
 - (ii) section 54B(2) (in a case falling within subsection (2)), or
 - (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

54E Review out of time

- (1) This section applies if—
 - (a) HMRC have offered a review of a decision under section 54A and P does not accept the offer within the time allowed under section 54C(1)(b) or 54D(3); or
 - (b) a person who requires a review under section 54B does not notify HMRC within the time allowed under that section or section 54D(3).
- (2) HMRC must review the decision under section 54C if—
 - (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
 - (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not be required to review a decision if P, or another person, has appealed to the appeal tribunal under section 54G in respect of the decision.

54F Nature of review etc

(1) This section applies if HMRC are required to undertake a review under section 54C or 54E.

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

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

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

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

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

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

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

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

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

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 54A), or
- (b) the date HMRC received notification from another person requiring review (in a case falling within section 54B), or
- (c) the date on which HMRC decided to undertake the review (in a case falling within section 54E).

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

(9) HMRC must notify P, or the other person of any conclusion under subsection (8).

54G Bringing of appeals

(1) An appeal under section 54 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
 - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
- (b) if later, the end of the relevant period (within the meaning of section 54D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 54C—

- (a) an appeal may not be made until the conclusion date, and

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of section 54E—
 - (a) an appeal may not be made—
 - (i) unless HMRC have decided whether or not to undertake a review, and
 - (ii) if HMRC decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if HMRC decide to undertake a review), or
 - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where section 54F(8) applies, an appeal may be made at any time from the end of the period specified in section 54F(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in subsection (1), (3) (b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.”.

Commencement Information

I230 Sch. 1 para. 235 in force at 1.4.2009, see [art. 1\(2\)](#)

- 236.**—(1) Section 55 (appeals: general) is amended as follows.
- (2) For the heading substitute “Appeals: further provisions”.
 - (3) Omit subsection (1).
 - (4) Omit subsection (2).
 - (5) For subsection (3) substitute—
 - “(3) Subject to subsections (3A) and (3B), where an appeal under section 54 relates to a decision falling within section 54(1)(b) or (d), it shall not be entertained unless the amount which HMRC have determined to be payable as tax has been paid or deposited with them.”.
 - (6) After subsection (3) insert—
 - “(3A) In a case where the amount determined to be payable as tax has not been paid or deposited an appeal may be entertained if—
 - (a) HMRC are satisfied (on the application of the appellant), or
 - (b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),
 that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.
 - (3B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.”.

Commencement Information

I231 Sch. 1 para. 236 in force at 1.4.2009, see [art. 1\(2\)](#)

- 237.**—(1) Section 56 (appeals: other provisions) is amended as follows.

- (2) Omit subsection (1).
- (3) In subsection (2), for “Where on the appeal” substitute “Where on an appeal under section 54”.
- (4) In subsection (3) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of this Act”.
- (5) In subsection (4) for “at such rate as the tribunal may determine” substitute “at the rate applicable under section 197 of this Act”.
- (6) In subsection (5) for “the tribunal may, if it thinks fit, direct that the amount shall be paid with interest at such rate as may be specified in the direction” substitute “it shall be paid with interest at the rate applicable under section 197 of this Act”.
- (7) After subsection (5) insert—

“(5A) Interest under subsection (5) shall be paid without any deduction of income tax.”.
- (8) For subsection (8) substitute—

“(8) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(**125**) shall have effect as if—

 - (a) the references to section 83 of that Act included references to section 54 of this Act, and
 - (b) the references to value added tax included references to landfill tax.”.

Commencement Information

I232 Sch. 1 para. 237 in force at 1.4.2009, see [art. 1\(2\)](#)

- 238.**—(1) Section 70(1) (interpretation) is amended as follows.
- (2) In the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.
 - (3) After the definition of “the Environment Agency” insert—

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

Commencement Information

I233 Sch. 1 para. 238 in force at 1.4.2009, see [art. 1\(2\)](#)

- 239.**—(1) Section 197 (setting of rates of interest)(**126**) is amended as follows.
- (2) In subsection (2)—
 - (a) in paragraph (a) for “paragraph 7” substitute “paragraphs 7 and 8(1)”;
 - (b) in paragraph (b) before “paragraphs” insert “sections 60(6), (7) and (8) of and”;
 - (c) in paragraph (c) for “74 and 78” substitute “74, 78 and 85A(2) and (3)”;
 - (d) in paragraph (d) before “paragraphs” insert “sections 56(3) to (5) of and”;
 - (e) in paragraph (g) for “and 81(3)” substitute “, 81(3) and 123(4) to (6)”; and
 - (f) in paragraph (h)(i) for “and 30(3)(f)” substitute “, 30(3)(f) and 42(4) to (6)”.

(125) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

(126) Section 197(2) has been amended by paragraph 21 of Schedule 5 to the [Finance Act 1997 \(c. 16\)](#), section 130(3) and (4) of, and Schedule 20 to, the [Finance Act 1999 \(c. 16\)](#), paragraph 6 of Schedule 7 to the [Finance Act 2000 \(c. 17\)](#), section 49(2) of, and paragraph 18(1) of Schedule 3 to, the [Finance Act 2001 \(c. 9\)](#) and section 132(2) of the [Finance Act 2002 \(c. 23\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I234 Sch. 1 para. 239 in force at 1.4.2009, see [art. 1\(2\)](#)

240.—(1) Schedule 5 (reviews) is amended as follows.

(2) In paragraph 19—

(a) in sub-paragraph (5)(a) and (5)(b) for “require a review of” substitute “appeal against”; and

(b) for sub-paragraph (5)(c) substitute—

“(c) sections 54 to 56 of this Act shall apply accordingly.”.

(3) For the heading before paragraph 59 substitute “Reviews and Appeals”.

(4) In paragraph 59—

(a) for “Section 54” substitute “Sections 54 to 56”;

(b) for “as it applies” substitute “as they apply”; and

(c) for “subsection (1) of that section” substitute “section 54(1)”.

Commencement Information

I235 Sch. 1 para. 240 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I227 Sch. 1 para. 232 in force at 1.4.2009, see [art. 1\(2\)](#)

I228 Sch. 1 para. 233 in force at 1.4.2009, see [art. 1\(2\)](#)

I229 Sch. 1 para. 234 in force at 1.4.2009, see [art. 1\(2\)](#)

I230 Sch. 1 para. 235 in force at 1.4.2009, see [art. 1\(2\)](#)

I231 Sch. 1 para. 236 in force at 1.4.2009, see [art. 1\(2\)](#)

I232 Sch. 1 para. 237 in force at 1.4.2009, see [art. 1\(2\)](#)

I233 Sch. 1 para. 238 in force at 1.4.2009, see [art. 1\(2\)](#)

I234 Sch. 1 para. 239 in force at 1.4.2009, see [art. 1\(2\)](#)

I235 Sch. 1 para. 240 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1997

241. The Finance Act 1997(**127**) is amended as follows.

Commencement Information

I236 Sch. 1 para. 241 in force at 1.4.2009, see [art. 1\(2\)](#)

242.—(1) Section 11(7) (rate of gaming duty) is amended as follows.

(2) For “14 to 16” substitute “13A to 16”.

(3) For “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.

Commencement Information

I237 Sch. 1 para. 242 in force at 1.4.2009, see [art. 1\(2\)](#)

- 243.**—(1) Schedule 1 (gaming duty: administration, enforcement etc) is amended as follows.
- (2) In paragraph 8(11)—
- (a) for “14 to 16” substitute “13A to 16”; and
 - (b) for “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.
- (3) In paragraph 9(5)—
- (a) for “14 to 16” substitute “13A to 16”; and
 - (b) for “specified in Schedule 5 to that Act” substitute “falling within section 13(A)(2)(j) of that Act”.

Commencement Information

I238 Sch. 1 para. 243 in force at 1.4.2009, see [art. 1\(2\)](#)

- 244.**—(1) In Schedule 5 (indirect taxes: overpayments etc) paragraph 19 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “14 to 16” substitute “13A to 16”; and
 - (b) for “14(1)(b)” substitute “13A(2)(b)”.
- (3) In sub-paragraph (2) for “59 and 60” substitute “59 to 60”.

Commencement Information

I239 Sch. 1 para. 244 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I236 Sch. 1 para. 241 in force at 1.4.2009, see [art. 1\(2\)](#)

I237 Sch. 1 para. 242 in force at 1.4.2009, see [art. 1\(2\)](#)

I238 Sch. 1 para. 243 in force at 1.4.2009, see [art. 1\(2\)](#)

I239 Sch. 1 para. 244 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance (No 2) Act 1997

- 245.** The Finance (No 2) Act 1997(**128**) is amended as follows.

Commencement Information

I240 Sch. 1 para. 245 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- 246.**—(1) Section 35(9) (transitional relief for charities etc) is amended as follows.
 (2) Omit “An appeal under this section shall lie to the Special Commissioners, and”.

Commencement Information

I241 Sch. 1 para. 246 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I240 Sch. 1 para. 245 in force at 1.4.2009, see [art. 1\(2\)](#)

I241 Sch. 1 para. 246 in force at 1.4.2009, see [art. 1\(2\)](#)

Social Security Act 1998

- 247.** The Social Security Act 1998(**129**) is amended as follows.

Commencement Information

I242 Sch. 1 para. 247 in force at 1.4.2009, see [art. 1\(2\)](#)

- 248.** In section 10A(2)(d) (reference of issues by Secretary of State to Inland Revenue)(**130**)—
 (a) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”; and
 (b) for “their decision” substitute “the tribunal’s decision”.

Commencement Information

I243 Sch. 1 para. 248 in force at 1.4.2009, see [art. 1\(2\)](#)

- 249.** In section 24A(2)(c) (appeals dependent on issues falling to be decided by Inland Revenue)(**131**) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”.

Commencement Information

I244 Sch. 1 para. 249 in force at 1.4.2009, see [art. 1\(2\)](#)

- 250.** In section 39 (interpretation etc of Chapter II) omit the definition of “tax appeal Commissioners”.

Commencement Information

I245 Sch. 1 para. 250 in force at 1.4.2009, see [art. 1\(2\)](#)

(129) 1998 c. 14.

(130) Section 10A was inserted by paragraph 24 of Schedule 7 to the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(c. 2\)](#).

(131) Section 24A was inserted by paragraph 33 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 and subsection (2)(c) was amended by paragraph 160 of [S.I. 2008/2833](#).

Commencement Information

- I242 Sch. 1 para. 247 in force at 1.4.2009, see [art. 1\(2\)](#)
- I243 Sch. 1 para. 248 in force at 1.4.2009, see [art. 1\(2\)](#)
- I244 Sch. 1 para. 249 in force at 1.4.2009, see [art. 1\(2\)](#)
- I245 Sch. 1 para. 250 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1998

251. The Finance Act 1998(132) is amended as follows.

Commencement Information

- I246 Sch. 1 para. 251 in force at 1.4.2009, see [art. 1\(2\)](#)

^{F8}252.

Textual Amendments

- F8 Sch. 1 para. 252 revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, [Sch. 10 Pt. 2](#) (with [Sch. 9 paras. 1-9](#))

253. Schedule 18 (company tax returns, assessments and related matters) is amended as follows.

Commencement Information

- I247 Sch. 1 para. 253 in force at 1.4.2009, see [art. 1\(2\)](#)

254. In paragraph 27(5)(b)(133) for “Special Commissioners” substitute “tribunal”.

Commencement Information

- I248 Sch. 1 para. 254 in force at 1.4.2009, see [art. 1\(2\)](#)

255.—(1) Paragraph 28 is amended as follows.

- (2) In sub-paragraph (3) omit “heard and”.
- (3) In sub-paragraph (4)—
 - (a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and
 - (b) omit “to them” (in both places).
- (4) In sub-paragraphs (5) and (6) for “Commissioners” substitute “tribunal”.

Commencement Information

- I249 Sch. 1 para. 255 in force at 1.4.2009, see [art. 1\(2\)](#)

(132) 1998 c. 36.

(133) Paragraph 27(5) was amended by paragraph 38(4) of Schedule 29 to the [Finance Act 2001 \(c. 9\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

256. In paragraph 29(2)(b) for “Commissioners” substitute “tribunal”.

Commencement Information

I250 Sch. 1 para. 256 in force at 1.4.2009, see [art. 1\(2\)](#)

257. For paragraph 30(5) substitute—

“(5) None of the steps mentioned in section 49A(2)(a) to (c) of the Taxes Management Act 1970 may be taken in relation to the appeal before the completion of the enquiry.”.

Commencement Information

I251 Sch. 1 para. 257 in force at 1.4.2009, see [art. 1\(2\)](#)

258.—(1) Paragraph 31A(**134**) is amended as follows.

- (2) In the heading for “Special Commissioners” substitute “ the tribunal”.
- (3) In sub-paragraph (1) for “Special Commissioners” substitute “tribunal” and omit “their”.
- (4) In sub-paragraph (2)—
 - (a) omit paragraph (b); and
 - (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.
- (5) Omit sub-paragraph (3).

Commencement Information

I252 Sch. 1 para. 258 in force at 1.4.2009, see [art. 1\(2\)](#)

259.—(1) Paragraph 31B is amended as follows.

- (2) In sub-paragraph (1) omit “by notice in accordance with this paragraph”.
- (3) Omit sub-paragraph (2).

Commencement Information

I253 Sch. 1 para. 259 in force at 1.4.2009, see [art. 1\(2\)](#)

260. In paragraph 31C(3)(a) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I254 Sch. 1 para. 260 in force at 1.4.2009, see [art. 1\(2\)](#)

261. In paragraph 31D(1) for “Special Commissioners” substitute “tribunal”.

(134) Paragraphs 31A to 31D inserted by section 88 and paragraph 7 of Schedule 29 to the Finance Act 2001 and amended by paragraph 68 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005.

Commencement Information

I255 Sch. 1 para. 261 in force at 1.4.2009, see [art. 1\(2\)](#)

262.—(1) Paragraph 33(**135**) is amended as follows.

(2) In sub-paragraph (1) for “Commissioners” substitute “tribunal”.

(3) For sub-paragraph (2) substitute—

“(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

(4) In sub-paragraph (3)—

(a) for “Commissioners hearing the application” substitute “tribunal”; and

(b) omit “they are”.

Commencement Information

I256 Sch. 1 para. 262 in force at 1.4.2009, see [art. 1\(2\)](#)

263. For paragraph 50(3) substitute—

“(3) An appeal may be brought against the Board’s decision on a claim for relief under this paragraph.”.

Commencement Information

I257 Sch. 1 para. 263 in force at 1.4.2009, see [art. 1\(2\)](#)

264.—(1) Paragraph 51 is amended as follows.

(2) In sub-paragraph (5) for “Special Commissioners shall hear and” substitute “tribunal shall”.

(3) In sub-paragraph (6)—

(a) omit “under section 56A of the Taxes Management Act 1970”; and

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

Commencement Information

I258 Sch. 1 para. 264 in force at 1.4.2009, see [art. 1\(2\)](#)

265. Insofar as paragraph 89(1)(b)(**136**) continues to apply in relation to tax years preceding the tax year 2008-09 it is to have effect as if “tribunal” were substituted for “Special or General Commissioners”.

Commencement Information

I259 Sch. 1 para. 265 in force at 1.4.2009, see [art. 1\(2\)](#)

(135) Paragraph 33 was amended by paragraph 68 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005.

(136) Paragraph 89 was repealed by Part 5(5) of Schedule 27 to the [Finance Act 2007 \(c. 11\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

266. Omit paragraph 92(3).

Commencement Information

I260 Sch. 1 para. 266 in force at 1.4.2009, see [art. 1\(2\)](#)

267. Omit paragraphs 93 and 94.

Commencement Information

I261 Sch. 1 para. 267 in force at 1.4.2009, see [art. 1\(2\)](#)

Textual Amendments

F8 Sch. 1 para. 252 revoked (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381, **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9)

Commencement Information

I246 Sch. 1 para. 251 in force at 1.4.2009, see [art. 1\(2\)](#)

I247 Sch. 1 para. 253 in force at 1.4.2009, see [art. 1\(2\)](#)

I248 Sch. 1 para. 254 in force at 1.4.2009, see [art. 1\(2\)](#)

I249 Sch. 1 para. 255 in force at 1.4.2009, see [art. 1\(2\)](#)

I250 Sch. 1 para. 256 in force at 1.4.2009, see [art. 1\(2\)](#)

I251 Sch. 1 para. 257 in force at 1.4.2009, see [art. 1\(2\)](#)

I252 Sch. 1 para. 258 in force at 1.4.2009, see [art. 1\(2\)](#)

I253 Sch. 1 para. 259 in force at 1.4.2009, see [art. 1\(2\)](#)

I254 Sch. 1 para. 260 in force at 1.4.2009, see [art. 1\(2\)](#)

I255 Sch. 1 para. 261 in force at 1.4.2009, see [art. 1\(2\)](#)

I256 Sch. 1 para. 262 in force at 1.4.2009, see [art. 1\(2\)](#)

I257 Sch. 1 para. 263 in force at 1.4.2009, see [art. 1\(2\)](#)

I258 Sch. 1 para. 264 in force at 1.4.2009, see [art. 1\(2\)](#)

I259 Sch. 1 para. 265 in force at 1.4.2009, see [art. 1\(2\)](#)

I260 Sch. 1 para. 266 in force at 1.4.2009, see [art. 1\(2\)](#)

I261 Sch. 1 para. 267 in force at 1.4.2009, see [art. 1\(2\)](#)

Social Security Contributions (Transfer of Functions, etc) Act 1999

268. The Social Security Contributions (Transfer of Functions, etc) Act 1999(**137**) is amended as follows.

Commencement Information

I262 Sch. 1 para. 268 in force at 1.4.2009, see [art. 1\(2\)](#)

269. In section 10(1)(c) (decisions varying or superseding earlier decisions)(**138**) for “tax appeal Commissioners” substitute “First-tier Tribunal or Upper Tribunal”.

(137) 1999 c. 2.

(138) Section 10 was amended by section 77(6) of the [Child Support, Pensions and Social Security Act 2000](#) (c. 19).

Commencement Information

I263 Sch. 1 para. 269 in force at 1.4.2009, see [art. 1\(2\)](#)

270. In section 11(2) (appeals against decisions of board)(**139**) for “tax appeal Commissioners”, in each place, substitute “tribunal”.

Commencement Information

I264 Sch. 1 para. 270 in force at 1.4.2009, see [art. 1\(2\)](#)

271.—(1) Section 12 (exercise of right of appeal) is amended as follows.

(2) For subsection (3) substitute—

“(3) The notice of appeal shall specify the grounds of appeal.”.

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

Commencement Information

I265 Sch. 1 para. 271 in force at 1.4.2009, see [art. 1\(2\)](#)

272.—(1) Section 13 (regulations with respect to appeals)(**140**) is amended as follows.

(2) In subsection (1) for “tax appeal Commissioners” substitute “tribunal”.

(3) In subsection (2)—

(a) omit paragraph (a)(i);

(b) in paragraph (a)(ii) for “tax appeal Commissioners” substitute “tribunal”;

(c) in paragraph (a)(iii) “for sections 56 and 56A (appeals from their decisions)” substitute “section 56 (payment of tax where there is a further appeal)”; and

(d) in paragraph (b) for “tax appeal Commissioners” substitute “tribunal”.

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

Commencement Information

I266 Sch. 1 para. 272 in force at 1.4.2009, see [art. 1\(2\)](#)

273.—(1) Section 14 (matters arising as respects decisions) is amended as follows.

(2) In subsections (1)(b) and (2)(a) for “tax appeal Commissioners” substitute “tribunal”.

Commencement Information

I267 Sch. 1 para. 273 in force at 1.4.2009, see [art. 1\(2\)](#)

274. For section 19 substitute—

(139) Subsection (2)(a) was amended by section 9(4) of the [Employment Act 2002 \(c. 22\)](#) and paragraph 57 of Schedule 1 to the [Work and Families Act 2006 \(c. 18\)](#).

(140) Section 13(1) was amended by [S.I. 1999/678](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

“19. Interpretation of Part II

In this Part—

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

Commencement Information

I268 Sch. 1 para. 274 in force at 1.4.2009, see [art. 1\(2\)](#)

275. In Schedule 7 omit paragraphs 2 and 3.

Commencement Information

I269 Sch. 1 para. 275 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I262 Sch. 1 para. 268 in force at 1.4.2009, see [art. 1\(2\)](#)

I263 Sch. 1 para. 269 in force at 1.4.2009, see [art. 1\(2\)](#)

I264 Sch. 1 para. 270 in force at 1.4.2009, see [art. 1\(2\)](#)

I265 Sch. 1 para. 271 in force at 1.4.2009, see [art. 1\(2\)](#)

I266 Sch. 1 para. 272 in force at 1.4.2009, see [art. 1\(2\)](#)

I267 Sch. 1 para. 273 in force at 1.4.2009, see [art. 1\(2\)](#)

I268 Sch. 1 para. 274 in force at 1.4.2009, see [art. 1\(2\)](#)

I269 Sch. 1 para. 275 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 1999

276. The Finance Act 1999(**141**) is amended as follows.

Commencement Information

I270 Sch. 1 para. 276 in force at 1.4.2009, see [art. 1\(2\)](#)

277. In Schedule 11 (company tax returns etc) omit paragraph 9.

Commencement Information

I271 Sch. 1 para. 277 in force at 1.4.2009, see [art. 1\(2\)](#)

278. Part II of Schedule 17 (determination of penalty and appeals) is amended as follows.

Commencement Information

I272 Sch. 1 para. 278 in force at 1.4.2009, see [art. 1\(2\)](#)

279. For the heading substitute “Determination of penalty, reviews and appeals”.

Commencement Information

I273 Sch. 1 para. 279 in force at 1.4.2009, see [art. 1\(2\)](#)

280. After paragraph 9(2) insert—

“(3) For the purposes of this Part “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

Commencement Information

I274 Sch. 1 para. 280 in force at 1.4.2009, see [art. 1\(2\)](#)

281.—(1) Paragraph 11 is amended as follows.

(2) In sub-paragraph (1) for “lies to the Special Commissioners” substitute “may be made”.

(3) Omit sub-paragraph (3).

(4) For sub-paragraph (4) substitute—

“(4) The notice of appeal must specify the grounds of appeal.”.

(5) After sub-paragraph (4) insert—

“(4A) Sections 49A to 49I of the Taxes Management Act 1970(**142**) shall apply to appeals under this paragraph, subject to the modifications in sub-paragraphs (4B) to (4E).

(4B) In the application of section 49C(4) for “contained in an agreement in writing under section 54(1) for the settlement of the matter” there is to be substituted “a written agreement under paragraph 10(3)(b) of Schedule 17 to the Finance Act 1999”.

(4C) Section 49C(5) and (6) are not to apply.

(4D) In the application of section 49F(2) for “an agreement in writing under section 54(1) for the settlement of the matter in question” there is to be substituted “a written agreement under paragraph 10(3)(b) of Schedule 17 to the Finance Act 1999”.

(4E) Sections 49F(3) and (4) are not to apply.

(4F) References to “the tribunal” are to be taken to be references to the “First-tier Tribunal.”.

(6) Omit sub-paragraph (5).

(7) In sub-paragraph (6)—

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

(b) omit “to them” in each place; and

(c) for “they consider”, in both places, substitute “the First-tier Tribunal considers”.

Commencement Information

I275 Sch. 1 para. 281 in force at 1.4.2009, see [art. 1\(2\)](#)

282. After paragraph 11 insert—

“**11A.**—(1) This paragraph applies in a case where—

(142)1970 c. 9. Sections 49A to 49I were inserted by paragraph 30 of Schedule 1 to this Order.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I276 Sch. 1 para. 282 in force at 1.4.2009, see [art. 1\(2\)](#)

283.—(1) Paragraph 12 is amended as follows.

(2) Omit sub-paragraph (1).

(3) For sub-paragraph (2) substitute—

“(2) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which had been determined under paragraph 11(6) above, but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(2A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (2) as it applies to the right of appeal under section 11(2) of that Act.”.

(4) In sub-paragraph (3)—

(a) for “court” substitute “Upper Tribunal”; and

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

Commencement Information

I277 Sch. 1 para. 283 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I270 Sch. 1 para. 276 in force at 1.4.2009, see [art. 1\(2\)](#)

- I271 Sch. 1 para. 277 in force at 1.4.2009, see [art. 1\(2\)](#)
- I272 Sch. 1 para. 278 in force at 1.4.2009, see [art. 1\(2\)](#)
- I273 Sch. 1 para. 279 in force at 1.4.2009, see [art. 1\(2\)](#)
- I274 Sch. 1 para. 280 in force at 1.4.2009, see [art. 1\(2\)](#)
- I275 Sch. 1 para. 281 in force at 1.4.2009, see [art. 1\(2\)](#)
- I276 Sch. 1 para. 282 in force at 1.4.2009, see [art. 1\(2\)](#)
- I277 Sch. 1 para. 283 in force at 1.4.2009, see [art. 1\(2\)](#)

Welfare Reform and Pensions Act 1999

284.—(1) Section 11 of the Welfare Reform and Pensions Act 1999(**143**) (effect of bankruptcy on pension rights: approved arrangements) is amended as follows.

- (2) In subsection (4)(b) for “General or Special Commissioners” substitute “tribunal”.
- (3) In subsection (5)(a) for “General or Special Commissioners’ ” substitute “tribunal’s”.

Commencement Information

- I278 Sch. 1 para. 284 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2000

285. The Finance Act 2000(**144**) is amended as follows.

Commencement Information

- I279 Sch. 1 para. 285 in force at 1.4.2009, see [art. 1\(2\)](#)

286. Schedule 6 (climate change levy, review and appeal) is amended as follows.

Commencement Information

- I280 Sch. 1 para. 286 in force at 1.4.2009, see [art. 1\(2\)](#)

287.—(1) Paragraph 99 is amended as follows.

- (2) In sub-paragraph (5) for “reviewed” substitute “appealed”.
- (3) In sub-paragraph (6)—
 - (a) for “reviewed” substitute “appealed”; and
 - (b) for “122 and 123” substitute “121A to 123”.
- (4) In sub-paragraph (7)—
 - (a) for “reviewed” substitute “appealed”; and
 - (b) for “122 and 123” substitute “121A to 123”.

(143) 1999 c. 30. Subsections (4) and (5) were amended by article 15(3)(c) and (d) of [S.I. 2006/745](#).

(144) 2000 c. 17.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I281 Sch. 1 para. 287 in force at 1.4.2009, see [art. 1\(2\)](#)

288.—(1) Paragraph 121 is amended as follows.

(2) For the heading substitute “Appeals”.

(3) In sub-paragraph (1), for the words before paragraph (a) substitute—

“(1) Subject to paragraph 122, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any decision of HMRC with respect to any of the following matters—”.

(4) In sub-paragraph (1)(h) for “reviewable” substitute “appealable”.

(5) Omit sub-paragraphs (2) to (9).

Commencement Information

I282 Sch. 1 para. 288 in force at 1.4.2009, see [art. 1\(2\)](#)

289. After paragraph 121 insert—

“Offer of review

121A.—(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under paragraph 121 in respect of the decision.

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

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

Right to require review

121B.—(1) Any person (other than P) who has the right of appeal under paragraph 121 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under paragraph 121G.

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

Review by HMRC

121C.—(1) HMRC must review a decision if—

(a) they have offered a review of the decision under paragraph 121A, and

(b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 121G.

(3) HMRC must review a decision if a person other than P notifies them under paragraph 121B.

(4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 121G in respect of the decision.

Extensions of time

121D.—(1) If under paragraph 121A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under paragraph 121B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

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

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

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

- (a) the period of 30 days referred to in—
 - (i) paragraph 121C(1)(b) (in a case falling within sub-paragraph (1)), or
 - (ii) paragraph 121B(2) (in a case falling within sub-paragraph (2)), or
- (b) if notice has been given under sub-paragraph (1) or (2), that period as extended (or as most recently extended) in accordance with sub-paragraph (3).

Review out of time

121E.—(1) This paragraph applies if—

- (a) HMRC have offered a review of a decision under paragraph 121A and P does not accept the offer within the time allowed under paragraph 121C(1)(b) or 121D(3); or
- (b) a person who requires a review under paragraph 121B does not notify HMRC within the time allowed under that paragraph or paragraph 121D(3).

(2) HMRC must review the decision under paragraph 121C if—

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

(3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 121G in respect of the decision.

Nature of review etc

121F.—(1) This paragraph applies if HMRC are required to undertake a review under paragraph 121C or 121E.

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

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

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

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (5) The review may conclude that the decision is to be—
- (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
- (a) a period of 45 days beginning with the relevant date, or
 - (b) such other period as HMRC and P, or the other person, may agree.
- (7) In sub-paragraph (6) “relevant date” means—
- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within paragraph 121A), or
 - (b) the date HMRC received notification from another person requiring review (in a case falling within paragraph 121B), or
 - (c) the date on which HMRC decided to undertake the review (in a case falling within paragraph 121E).
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If sub-paragraph (8) applies, HMRC must notify P, or the other person of the conclusion which the review is treated as having reached.

Bringing of appeals

- 121G.**—(1) An appeal under paragraph 121 is to be made to the appeal tribunal before—
- (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
 - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
 - (b) if later, the end of the relevant period (within the meaning of paragraph 121D).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under paragraph 121C—
- (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of paragraph 121E—
- (a) an appeal may not be made—
 - (i) unless HMRC have decided whether or not to undertake a review, and
 - (ii) if HMRC decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if HMRC decide to undertake a review), or
 - (ii) the date on which HMRC decide not to undertake a review.

(5) In a case where paragraph 121F(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 121F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this paragraph “conclusion date” means the date of the document notifying the conclusions of the review.”.

Commencement Information

I283 [Sch. 1 para. 289](#) in force at 1.4.2009, see [art. 1\(2\)](#)

290.—(1) Paragraph 122 is amended as follows.

(2) For the heading substitute “Appeals: further provisions”.

(3) Omit sub-paragraph (1).

(4) For sub-paragraph (2) substitute—

“(2) Subject to sub-paragraphs (2A) and (2B), where an appeal relates to a decision (whether or not contained in an assessment) that an amount of levy is due from any person, it shall not be entertained unless the amount which HMRC have determined to be due has been paid or deposited with them.”.

(5) After sub-paragraph (2) insert—

“(2A) In a case where the amount determined to be payable as levy has not been paid or deposited an appeal shall be entertained if—

(a) HMRC are satisfied (on the application of the appellant), or

(b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(2B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

Commencement Information

I284 [Sch. 1 para. 290](#) in force at 1.4.2009, see [art. 1\(2\)](#)

291.—(1) Paragraph 123 is amended as follows.

(2) In sub-paragraph (1)—

(a) for “122” substitute “121”; and

(b) in paragraph (a) omit “made, confirmed or treated as confirmed by the Commissioners on a review under paragraph 121 (“the original assessment”)”.

(3) In sub-paragraph (2)—

(a) for “122” substitute “121”; and

(b) in paragraph (b)—

(i) after “tribunal,” insert “a review or”; and

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (ii) after “decision” insert “as appropriate”.
- (4) In sub-paragraph (3) for “122” substitute “121”.
- (5) In sub-paragraph (4)—
 - (a) for the first occurrence of “122” substitute “121”; and
 - (b) for “at such rate as the appeal tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
- (6) In sub-paragraph (5)—
 - (a) for “122” substitute “121”; and
 - (b) for “at such rate as the appeal tribunal may determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
- (7) In sub-paragraph (6)—
 - (a) in paragraph (a) for “122” substitute “121”; and
 - (b) for the words after paragraph (b) substitute—
 - “it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996”.
- (8) After sub-paragraph (6) insert—
 - “(6A) Interest under sub-paragraph (6) shall be paid without any deduction of income tax.
- (9) For sub-paragraph (7) substitute—
 - “(7) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(145) shall have effect as if—
 - (a) the references to section 83 of that Act included references to paragraph 121 above, and
 - (b) the references to value added tax included references to climate change levy.”.

Commencement Information

I285 Sch. 1 para. 291 in force at 1.4.2009, see [art. 1\(2\)](#)

- 292.**—(1) Paragraph 147 (interpretation) is amended as follows.
- (2) In the definition of “appeal tribunal”, for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.
 - (3) After the definition of “gas utility” insert—
 - ““HMRC” means Her Majesty’s Revenue and Customs;”

Commencement Information

I286 Sch. 1 para. 292 in force at 1.4.2009, see [art. 1\(2\)](#)

- 293.**—(1) Schedule 15 (the corporate venturing scheme) is amended as follows.
- (2) in paragraph 91—

(145) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

- (a) in sub-paragraph (4) for “Special Commissioners” substitute “tribunal”; and
 - (b) in sub-paragraph (5) for “Special Commissioners that they are” substitute “tribunal that it is”.
- (3) In paragraph 92(2)(a) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I287 Sch. 1 para. 293 in force at 1.4.2009, see [art. 1\(2\)](#)

- 294.**—(1) Schedule 22 (tonnage tax) is amended as follows.
- (2) In paragraph 43(1) for “lies to the Special Commissioners” substitute “may be made”.
 - (3) In paragraph 126(5)(b) for “lies to the Special Commissioners” substitute “may be made”.

Commencement Information

I288 Sch. 1 para. 294 in force at 1.4.2009, see [art. 1\(2\)](#)

- 295.**—(1) Schedule 38 (regulations for providing incentives for electronic communications) is amended as follows.
- (2) In paragraph 4(3) after “assessments,” insert “reviews,”.

Commencement Information

I289 Sch. 1 para. 295 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

- I279** Sch. 1 para. 285 in force at 1.4.2009, see [art. 1\(2\)](#)
- I280** Sch. 1 para. 286 in force at 1.4.2009, see [art. 1\(2\)](#)
- I281** Sch. 1 para. 287 in force at 1.4.2009, see [art. 1\(2\)](#)
- I282** Sch. 1 para. 288 in force at 1.4.2009, see [art. 1\(2\)](#)
- I283** Sch. 1 para. 289 in force at 1.4.2009, see [art. 1\(2\)](#)
- I284** Sch. 1 para. 290 in force at 1.4.2009, see [art. 1\(2\)](#)
- I285** Sch. 1 para. 291 in force at 1.4.2009, see [art. 1\(2\)](#)
- I286** Sch. 1 para. 292 in force at 1.4.2009, see [art. 1\(2\)](#)
- I287** Sch. 1 para. 293 in force at 1.4.2009, see [art. 1\(2\)](#)
- I288** Sch. 1 para. 294 in force at 1.4.2009, see [art. 1\(2\)](#)
- I289** Sch. 1 para. 295 in force at 1.4.2009, see [art. 1\(2\)](#)

Freedom of Information Act 2000

- 296.** In Schedule 1 to the Freedom of Information Act 2000(**146**) (public authorities)—
- (a) in Part 6 (other public bodies and offices: general) omit “An Advisory Committee on General Commissioners of Income Tax”; and

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (b) in Part 7 (other public bodies and offices: Northern Ireland) omit “An Advisory Committee on General Commissioners of Income Tax (Northern Ireland)”.

Commencement Information

I290 Sch. 1 para. 296 in force at 1.4.2009, see [art. 1\(2\)](#)

Capital Allowances Act 2001

297. The Capital Allowances Act 2001(**147**) is amended as follows.

Commencement Information

I291 Sch. 1 para. 297 in force at 1.4.2009, see [art. 1\(2\)](#)

298.—(1) Section 204 (appeals etc) is amended as follows.

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

(3) For subsection (3) substitute—

“(3) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

(4) In subsection (4)—

(a) for “any body of Commissioners” substitute “the tribunal”; and

(b) for “them” substitute “it”.

(5) In subsection (5) for “Commissioners” substitute “tribunal”;

(6) For subsection (6) substitute—

“(6) Each of the persons who has joined in the election is entitled to be a party to the proceedings of the tribunal concerned with the determination of the question; and the tribunal’s determination has effect as if made in an appeal to which each of those persons was a party.”.

Commencement Information

I292 Sch. 1 para. 298 in force at 1.4.2009, see [art. 1\(2\)](#)

299.—(1) Section 563 (procedure for determining certain questions affecting two or more persons) is amended as follows.

(2) Omit subsections (2) to (5).

(3) For subsection (6) substitute—

“(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

Commencement Information

I293 Sch. 1 para. 299 in force at 1.4.2009, see [art. 1\(2\)](#)

300. Omit paragraph 5 of Schedule 2.

Commencement Information

I294 Sch. 1 para. 300 in force at 1.4.2009, see [art. 1\(2\)](#)

301.—(1) Paragraph 91 of Schedule 3 (disposal of oil licences) is amended as follows.

(2) In sub-paragraph (5)—

(a) for “the Special Commissioners are” substitute “the tribunal is”; and

(b) for “they” substitute “the tribunal”.

(3) For sub-paragraph (6) substitute—

“(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

Commencement Information

I295 Sch. 1 para. 301 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I291 Sch. 1 para. 297 in force at 1.4.2009, see [art. 1\(2\)](#)

I292 Sch. 1 para. 298 in force at 1.4.2009, see [art. 1\(2\)](#)

I293 Sch. 1 para. 299 in force at 1.4.2009, see [art. 1\(2\)](#)

I294 Sch. 1 para. 300 in force at 1.4.2009, see [art. 1\(2\)](#)

I295 Sch. 1 para. 301 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2001

302. The Finance Act 2001(**148**) is amended as follows.

Commencement Information

I296 Sch. 1 para. 302 in force at 1.4.2009, see [art. 1\(2\)](#)

303.—(1) Section 40 (aggregates levy: review of Commissioners’ decisions) is amended as follows.

(2) For the heading substitute “Appeals”.

(3) In subsection (1)—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- (a) for “This section applies to any decision of the Commissioners with respect to any of the following matters” substitute “Subject to section 41, an appeal shall lie to an appeal tribunal from any person who is or will be affected by any decision of HMRC with respect to any of the following matters—”;
- (b) in paragraph (g) for “reviewable” substitute “appealable”;
- (c) in paragraph (l) for “any assessment under this Part” substitute—
 - “(i) an assessment under paragraphs 2 or 3 of Schedule 5 in respect of an accounting period in relation to which any return required to be made by virtue of regulations under section 25 has been made; or
 - (ii) an assessment under any provision of Schedule 5 other than paragraphs 2 or 3.”.
- (4) Omit subsections (2) to (9).

Commencement Information

I297 Sch. 1 para. 303 in force at 1.4.2009, see [art. 1\(2\)](#)

304. After section 40 insert—

“40A Offer of review

- (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 40 in respect of the decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This section does not apply to the notification of the conclusions of a review.

40B Right to require review

- (1) Any person (other than P) who has the right of appeal under section 40 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal under section 40G.
- (2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

40C Review by HMRC

- (1) HMRC must review a decision if—
 - (a) they have offered a review of the decision under section 40A, and
 - (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 40G.
- (3) HMRC must review a decision if a person other than P notifies them under section 40B.
- (4) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 40G in respect of the decision.

40D Extensions of time

- (1) If under section 40A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If under section 40B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.
- (3) If notice is given the relevant period is extended to the end of 30 days from—
 - (a) the date of the notice, or
 - (b) any other date set out in the notice or a further notice.
- (4) In this section “relevant period” means—
 - (a) the period of 30 days referred to in—
 - (i) section 40C(1)(b) (in a case falling within subsection (1)), or
 - (ii) section 40B(2) (in a case falling within subsection (2)), or
 - (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

40E Review out of time

- (1) This section applies if—
 - (a) HMRC have offered a review of a decision under section 40A and P does not accept the offer within the time allowed under section 40C(1)(b) or 40D(3); or
 - (b) a person who requires a review under section 40B does not notify HMRC within the time allowed under that section or section 40D(3).
- (2) HMRC must review the decision under section 40C if—
 - (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
 - (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under section 40G in respect of the decision.

40F Nature of review etc

- (1) This section applies if HMRC are required to undertake a review under section 40C or 40E.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
 - (a) by HMRC in reaching the decision, and
 - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
- (a) a period of 45 days beginning with the relevant date, or
 - (b) such other period as HMRC and P, or the other person, may agree.
- (7) In subsection (6) “relevant date” means—
- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 40A), or
 - (b) the date HMRC received notification from another person requiring review (in a case falling within section 40B), or
 - (c) the date on which HMRC decided to undertake the review (in a case falling within section 40E).
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.

40G Bringing of appeals

- (1) An appeal under section 40 is to be made to the appeal tribunal before—
 - (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
 - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
 - (b) if later, the end of the relevant period (within the meaning of section 40D).
- (2) But that is subject to subsections (3) to (5).
- (3) In a case where HMRC are required to undertake a review under section 40C—
 - (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of section 40E—
 - (a) an appeal may not be made—
 - (i) unless HMRC have decided whether or not to undertake a review, and
 - (ii) if HMRC decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if HMRC decide to undertake a review), or
 - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where section 40F(8) applies, an appeal may be made at any time from the end of the period specified in section 40F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3) (b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

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

Commencement Information

I298 Sch. 1 para. 304 in force at 1.4.2009, see [art. 1\(2\)](#)

305.—(1) Section 41 (appeals against reviewed decisions) is amended as follows.

(2) For the heading substitute “Appeals: further provisions”.

(3) Omit subsection (1).

(4) For subsection (2) substitute—

“(2) Subject to subsections (2A) and (2B), where an appeal under section 40 relates to a decision (whether or not contained in an assessment) that an amount of aggregates levy is due from any person, it shall not be entertained unless the amount which HMRC have determined to be due has been paid or deposited with them.”.

(5) After subsection (2) insert—

“(2A) In a case where the amount determined to be payable as aggregates levy has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the appeal tribunal decides (HMRC not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(2B) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.”.

(6) In section 41(3) for “under this section” substitute “under section 40”.

Commencement Information

I299 Sch. 1 para. 305 in force at 1.4.2009, see [art. 1\(2\)](#)

306.—(1) Section 42 (determinations on appeal) is amended as follows.

(2) In subsection (1)—

- (a) for “41” substitute “40”; and
- (b) in paragraph (a) omit “made, confirmed or treated as confirmed by the Commissioners on a review under section 40 above (“the original assessment”)”.

(3) In subsection (2)—

- (a) for “41” substitute “40”; and
- (b) in paragraph (b)—
 - (i) after “tribunal,” insert “a review or”; and
 - (ii) after “decision” insert “as appropriate”.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (4) In subsection (3) for “41” substitute “40”.
- (5) In subsection (4)—
- (a) for the first occurrence of “41” substitute “40”; and
 - (b) for “at such rate as the tribunal shall determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
- (6) In subsection (5)—
- (a) for “41” substitute “40”; and
 - (b) for “at such rate as the tribunal shall determine” substitute “at the rate applicable under section 197 of the Finance Act 1996”.
- (7) In subsection (6)—
- (a) in paragraph (a) for “41” substitute “40”,
 - (b) for the words after paragraph (b) substitute—

“it shall be paid with interest at the rate applicable under section 197 of the Finance Act 1996”.
- (8) After subsection (6) insert—
- “(6A) Interest under subsection (6) shall be paid without any deduction of income tax.”.
- (9) For subsection (7) substitute—
- “(7) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal)(149) shall have effect as if—
- (a) the references to section 83 of that Act included references to section 40 above, and
 - (b) the references to value added tax included references to aggregates levy.”.

Commencement Information

I300 Sch. 1 para. 306 in force at 1.4.2009, see [art. 1\(2\)](#)

307.—(1) Section 48 (interpretation of part) is amended as follows.

(2) In the definition of “appeal tribunal” for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;”.

(3) After the definition of “gravel” insert—

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

Commencement Information

I301 Sch. 1 para. 307 in force at 1.4.2009, see [art. 1\(2\)](#)

308. For paragraph 14(4) of Schedule 3 (appeals) substitute—

“(4) The rate of interest is the rate applicable under section 197 of the Finance Act 1996.”

(149) 1994 c. 23. Section 85B was inserted by paragraph 223 of this Schedule.

Commencement Information

I302 [Sch. 1 para. 308](#) in force at 1.4.2009, see [art. 1\(2\)](#)

309.—(1) Paragraph 8 of Schedule 6 (aggregates levy: evasion, misdeclaration and neglect) is amended as follows.

(2) In sub-paragraph (5) for “reviewed under section 40” substitute “appealed under section 40”.

(3) In sub-paragraph (6)—

(a) for “reviewed in accordance with section 40” substitute “appealed under section 40”; and

(b) for “41 and 42” substitute “40A to 42”.

(4) In sub-paragraph (7)—

(a) for “reviewed under section 40” substitute “appealed under section 40”; and

(b) for “41 and 42” substitute “40A to 42”.

Commencement Information

I303 [Sch. 1 para. 309](#) in force at 1.4.2009, see [art. 1\(2\)](#)

310. Omit paragraph 2 of Schedule 24.

Commencement Information

I304 [Sch. 1 para. 310](#) in force at 1.4.2009, see [art. 1\(2\)](#)

311. Omit paragraphs 27 and 28 of Schedule 29.

Commencement Information

I305 [Sch. 1 para. 311](#) in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I296 [Sch. 1 para. 302](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I297 [Sch. 1 para. 303](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I298 [Sch. 1 para. 304](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I299 [Sch. 1 para. 305](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I300 [Sch. 1 para. 306](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I301 [Sch. 1 para. 307](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I302 [Sch. 1 para. 308](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I303 [Sch. 1 para. 309](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I304 [Sch. 1 para. 310](#) in force at 1.4.2009, see [art. 1\(2\)](#)

I305 [Sch. 1 para. 311](#) in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Tax Credits Act 2002

312. The Tax Credits Act 2002(**150**) is amended as follows.

Commencement Information

I306 Sch. 1 para. 312 in force at 1.4.2009, see [art. 1\(2\)](#)

313. For section 19(10) (power to enquire) substitute—

“(10) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and the tribunal must give the direction applied for unless satisfied that the Board have reasonable grounds for not making the decision or giving the notice.”.

Commencement Information

I307 Sch. 1 para. 313 in force at 1.4.2009, see [art. 1\(2\)](#)

314.—(1) Section 39 (exercise of right of appeal) is amended as follows.

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

(3) In subsection (6) for “(appeals to Commissioners)” substitute “(appeals and other proceedings)”.

(4) Omit subsection (7).

Commencement Information

I308 Sch. 1 para. 314 in force at 1.4.2009, see [art. 1\(2\)](#)

315. In section 48(1) (interpretation) omit the definitions of “the General Commissioners” and “the Special Commissioners”.

Commencement Information

I309 Sch. 1 para. 315 in force at 1.4.2009, see [art. 1\(2\)](#)

316.—(1) Section 63 (tax credit appeals etc: temporary modifications)(**151**) is amended as follows.

(2) For subsection (2) substitute—

“(2) Except in the case of an appeal against an employer penalty, an appeal under section 38 is to—

(a) in Great Britain, the First-tier Tribunal; or

(b) in Northern Ireland, the appeal tribunal;

and in either case section 39(6) shall not apply.”.

(3) For subsection (3) substitute—

“(3) The function of giving a direction under section 19(10) is a function of—

(150) 2002 c. 21.

(151) Section 63 was amended by paragraph 191 of Schedule 3 to [S.I. 2008/2833](#).

- (a) in Great Britain, the First-tier Tribunal; or
 - (b) in Northern Ireland, the appeal tribunal;
- and in either case the relevant provisions of Part 5 of the Taxes Management Act 1970 shall not apply.”.
- (4) For subsection (4) substitute—
- “(4) In Northern Ireland, except in the case of an employer information penalty, proceedings under paragraph 3 of Schedule 2 are by way of information in writing, made to the appeal tribunal (rather than to the tribunal), and upon summons issued by them to the defendant to appear before them at a time and place stated in the summons; and they must hear and decide each case in a summary way.”.
- (5) In subsection (5)—
- (a) in paragraph (a)—
 - (i) for “General Commissioners or Special Commissioners in sections 19(10) and 39(5)” substitute “tribunal in section 19(10)”;
 - (ii) for “appropriate tribunal” substitute “appeal tribunal”;
 - (iii) omit “and”; and
 - (b) omit paragraph (b).
- (6) For subsection (6) substitute—
- “(6) In Northern Ireland, an appeal under paragraph 2(2) or 4(1) of Schedule 2 from a decision of, or against the determination of a penalty by, the appeal tribunal lies to the Northern Ireland Social Security Commissioner (rather than to the Upper Tribunal).”.
- (7) In subsection (7) for “to the High Court and the Court of Session are to the Upper Tribunal or a Northern Ireland Social Security Commissioner” substitute “to the Upper Tribunal are to the Northern Ireland Social Security Commissioner”.
- (8) In subsection (8) for “appropriate tribunal or lie to the Upper Tribunal or” substitute “appeal tribunal or lie to”.
- (9) Omit subsection (9).
- (10) For subsection (10) substitute—
- “(10) “Appeal tribunal” means an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998.”.
- (11) After subsection (13) insert—
- “(14) “tribunal” (other than in the expression “appeal tribunal”) shall have the meaning in section 47C of the Taxes Management Act 1970.”.

Commencement Information

I310 Sch. 1 para. 316 in force at 1.4.2009, see [art. 1\(2\)](#)

317. Schedule 2 (penalties: supplementary) is amended as follows.

Commencement Information

I311 Sch. 1 para. 317 in force at 1.4.2009, see [art. 1\(2\)](#)

318.—(1) Paragraph 2 is amended as follows—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (2) In sub-paragraph (1)—
- (a) omit “to them”;
 - (b) for “paragraph 1, the General Commissioners or Special Commissioners” substitute “paragraph 1 that is notified to the First-tier tribunal, the tribunal”; and
 - (c) in sub-paragraphs (1)(c) and (d) for “they consider” substitute “the First-tier Tribunal considers”.
- (3) For sub-paragraph (2) substitute—
- “(2) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under sub-paragraph (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.
- (2A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (2) as it applies to the right of appeal under section 11(2) of that Act.
- (2B) On an appeal under this paragraph the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this paragraph.”.

Commencement Information

I312 Sch. 1 para. 318 in force at 1.4.2009, see [art. 1\(2\)](#)

- 319.**—(1) Paragraph 3 is amended as follows.
- (2) In the heading for “Commissioners” substitute “tribunal”.
 - (3) In sub-paragraph (1) after “section 32(2)(a)” insert “before the tribunal”.
 - (4) For sub-paragraph (2) substitute—

“(2) The person liable to the penalty shall be a party to the proceedings.”.
 - (5) After sub-paragraph (2) insert—

“(3) “tribunal” is to be read in accordance with section 47C of the Taxes Management Act 1970.”.

Commencement Information

I313 Sch. 1 para. 319 in force at 1.4.2009, see [art. 1\(2\)](#)

- 320.**—(1) Paragraph 4 is amended as follows.
- (2) For sub-paragraph (1) substitute—

“(1) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the determination of a penalty in proceedings under paragraph 2(1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.”.

(3) In sub-paragraph (2) for “court”, in each place, substitute “Upper Tribunal”.

Commencement Information

I314 Sch. 1 para. 320 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I306 Sch. 1 para. 312 in force at 1.4.2009, see [art. 1\(2\)](#)

I307 Sch. 1 para. 313 in force at 1.4.2009, see [art. 1\(2\)](#)

I308 Sch. 1 para. 314 in force at 1.4.2009, see [art. 1\(2\)](#)

I309 Sch. 1 para. 315 in force at 1.4.2009, see [art. 1\(2\)](#)

I310 Sch. 1 para. 316 in force at 1.4.2009, see [art. 1\(2\)](#)

I311 Sch. 1 para. 317 in force at 1.4.2009, see [art. 1\(2\)](#)

I312 Sch. 1 para. 318 in force at 1.4.2009, see [art. 1\(2\)](#)

I313 Sch. 1 para. 319 in force at 1.4.2009, see [art. 1\(2\)](#)

I314 Sch. 1 para. 320 in force at 1.4.2009, see [art. 1\(2\)](#)

Employment Act 2002

321. Schedule 1 of the Employment Act 2002(**152**) is amended as follows.

Commencement Information

I315 Sch. 1 para. 321 in force at 1.4.2009, see [art. 1\(2\)](#)

322.—(1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (2) after “to tax” insert “except that references to the tribunal shall be taken to be references to the First-tier Tribunal”.

(3) In sub-paragraph (3)—

(a) for “General or Special Commissioners” substitute “First-tier Tribunal”;

(b) in sub-paragraphs (3)(a) and (b) omit “to them”; and

(c) in sub-paragraphs (3)(c) and (d)—

(i) omit “to them”;

(ii) for “they consider” substitute “the tribunal considers”.

(4) For sub-paragraph (4) substitute—

“(4) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which had been determined under sub-paragraph (3), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

(4B) On an appeal under this paragraph the Upper Tribunal has the like jurisdiction as is conferred on the First-tier Tribunal by virtue of this paragraph.”

Commencement Information

I316 Sch. 1 para. 322 in force at 1.4.2009, see [art. 1\(2\)](#)

323.—(1) Paragraph 4 is amended as follows.

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

(3) For sub-paragraph (2) substitute—

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

(4) For sub-paragraph (4) substitute—

“(4) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the determination of a penalty in proceedings under sub-paragraph (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(4A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (4) as it applies to the right of appeal under section 11(2) of that Act.”

(5) In sub-paragraph (5) for “court” in each place substitute “Upper Tribunal”.

Commencement Information

I317 Sch. 1 para. 323 in force at 1.4.2009, see [art. 1\(2\)](#)

324. In paragraph 7 for “Commissioners” substitute “tribunal”.

Commencement Information

I318 Sch. 1 para. 324 in force at 1.4.2009, see [art. 1\(2\)](#)

325. In paragraph 9 omit the definition of ““General Commissioners” and “Special Commissioners””.

Commencement Information

I319 Sch. 1 para. 325 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I315 Sch. 1 para. 321 in force at 1.4.2009, see [art. 1\(2\)](#)

I316 Sch. 1 para. 322 in force at 1.4.2009, see [art. 1\(2\)](#)

I317 Sch. 1 para. 323 in force at 1.4.2009, see [art. 1\(2\)](#)

I318 Sch. 1 para. 324 in force at 1.4.2009, see [art. 1\(2\)](#)

I319 Sch. 1 para. 325 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2002

326. The Finance Act 2002(**153**) is amended as follows.

Commencement Information

I320 Sch. 1 para. 326 in force at 1.4.2009, see [art. 1\(2\)](#)

327.—(1) Schedule 18 (relief for community amateur sports clubs) is amended as follows.

(2) In paragraph 13—

- (a) in sub-paragraph (1) omit “to the General Commissioners”;
- (b) omit sub-paragraph (4); and
- (c) in sub-paragraphs (5) and (6)—
 - (i) for “Commissioners” substitute “tribunal”; and
 - (ii) for “if they do not dismiss” substitute “if not dismissing”.

Commencement Information

I321 Sch. 1 para. 327 in force at 1.4.2009, see [art. 1\(2\)](#)

328.—(1) Schedule 29 (gains and losses of a company from intangible fixed assets) is amended as follows.

(2) In paragraph 88(5)(**154**) for “Special Commissioners”, in both places, substitute “tribunal”.

(3) In paragraph 88(6) for “Special Commissioners” and for “Commissioners” substitute “tribunal”.

Commencement Information

I322 Sch. 1 para. 328 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I320 Sch. 1 para. 326 in force at 1.4.2009, see [art. 1\(2\)](#)

I321 Sch. 1 para. 327 in force at 1.4.2009, see [art. 1\(2\)](#)

I322 Sch. 1 para. 328 in force at 1.4.2009, see [art. 1\(2\)](#)

Justice (Northern Ireland) Act 2002

329. The Justice (Northern Ireland) Act 2002(**155**) is amended as follows.

(153) 2002 c. 23.

(154) Paragraph 88 was amended by regulation 3(2) of, and paragraphs 9 and 13 of Schedule 2 to, [S.I. 2007/3186](#).

(155) 2002 c. 26. The entries relating to the General Commissioner and VAT tribunals in Schedules 1 and 6 were amended by paragraphs 122(5) and 126(5) of Schedule 5 to the [Constitutional Reform Act 2005 \(c. 4\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I323 Sch. 1 para. 329 in force at 1.4.2009, see [art. 1\(2\)](#)

330. Omit section 9B(3)(b)(156).

Commencement Information

I324 Sch. 1 para. 330 in force at 1.4.2009, see [art. 1\(2\)](#)

331. In Schedule 1 (listed judicial offices) omit—

- (a) “Member of the panel of chairmen of VAT tribunals for Northern Ireland”; and
- (b) “General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)”.

Commencement Information

I325 Sch. 1 para. 331 in force at 1.4.2009, see [art. 1\(2\)](#)

332. In Schedule 6 (office-holders required to take judicial oath) omit—

- (a) “Member of the panel of chairmen of VAT tribunals for Northern Ireland”; and
- (b) “General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)”.

Commencement Information

I326 Sch. 1 para. 332 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I323 Sch. 1 para. 329 in force at 1.4.2009, see [art. 1\(2\)](#)

I324 Sch. 1 para. 330 in force at 1.4.2009, see [art. 1\(2\)](#)

I325 Sch. 1 para. 331 in force at 1.4.2009, see [art. 1\(2\)](#)

I326 Sch. 1 para. 332 in force at 1.4.2009, see [art. 1\(2\)](#)

Proceeds of Crime Act 2002

333. Omit section 320 of the Proceeds of Crime Act 2002(157).

Commencement Information

I327 Sch. 1 para. 333 in force at 1.4.2009, see [art. 1\(2\)](#)

(156) Section 9B was inserted by section 125 of the [Constitutional Reform Act 2005](#).
(157) 2002 c. 29.

Income Tax (Earnings and Pensions) Act 2003

334. The Income Tax (Earnings and Pensions) Act 2003(**158**) is amended as follows.

Commencement Information

I328 Sch. 1 para. 334 in force at 1.4.2009, see [art. 1\(2\)](#)

335. Insofar as section 43 (appeal against Commissioners' decision on domicile or ordinary residence)(**159**) continues to apply in relation to tax years preceding the tax year 2008-09 it is to have effect as if—

- (a) in the heading “tribunal” were substituted for “Commissioners”; and
- (b) in subsection (1) “to the Special Commissioners” were omitted.

Commencement Information

I329 Sch. 1 para. 335 in force at 1.4.2009, see [art. 1\(2\)](#)

336.—(1) Section 111 (disputes as to annual value) is amended as follows.

(2) Omit subsection (2).

(3) For subsection (3) substitute—

“(3) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.”.

Commencement Information

I330 Sch. 1 para. 336 in force at 1.4.2009, see [art. 1\(2\)](#)

337. In section 345(2) (decisions of an officer of Revenue and Customs under section 344) omit “to the Special Commissioners”.

Commencement Information

I331 Sch. 1 para. 337 in force at 1.4.2009, see [art. 1\(2\)](#)

338. In section 684(5) (PAYE regulations) for “General or Special Commissioners” substitute “tribunal”.

Commencement Information

I332 Sch. 1 para. 338 in force at 1.4.2009, see [art. 1\(2\)](#)

339. In section 715(3)(b) (approval of schemes: regulation by Treasury) omit “to the Special Commissioners”.

(158) 2003 c. 1.

(159) Section 43 was repealed by section 25 of, and paragraphs 2 and 23 of Schedule 7 to, the [Finance Act 2008 \(c. 9\)](#).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I333 Sch. 1 para. 339 in force at 1.4.2009, see [art. 1\(2\)](#)

40.—(1) Part 2 of Schedule 1 (index of expressions defined in this Act or ICTA) is amended as follows.

- (2) Omit the entry for “General Commissioners”.
- (3) Omit the entry for “Special Commissioners”.
- (4) Following the entry for “transport voucher” insert—
“tribunal section 989 of ITA 2007”.

Commencement Information

I334 Sch. 1 para. 340 in force at 1.4.2009, see [art. 1\(2\)](#)

341.—(1) Paragraph 82 of Schedule 2 (approved share incentive plans)(**160**) is amended as follows.

- (2) In sub-paragraph (1) omit “to the Special Commissioners”.
- (3) In sub-paragraph (3)—
 - (a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and
 - (b) for “Commissioners” substitute “tribunal”.

Commencement Information

I335 Sch. 1 para. 341 in force at 1.4.2009, see [art. 1\(2\)](#)

342. In paragraph 85(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

Commencement Information

I336 Sch. 1 para. 342 in force at 1.4.2009, see [art. 1\(2\)](#)

343.—(1) Paragraph 100 (the index of defined expressions) is amended as follows.

- (2) Omit the entry for “Special Commissioners”.
- (3) Following the entry for “tax ” insert—
“tribunal section 989 of ITA 2007”.

Commencement Information

I337 Sch. 1 para. 343 in force at 1.4.2009, see [art. 1\(2\)](#)

(160) Paragraphs 82 and 85 were amended by section 50 of, and paragraphs 103(1)(b) and 121(b) and (c) of Schedule 4 to, the [Commissioners of Revenue and Customs Act 2005 \(c. 11\)](#).

344. Schedule 3 (approved SAYE option schemes) is amended as follows.

Commencement Information

I338 Sch. 1 para. 344 in force at 1.4.2009, see [art. 1\(2\)](#)

345.—(1) Paragraph 41 (appeal against refusal of approval)(**161**) is amended as follows.

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

(3) In sub-paragraph (3)—

- (a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and
- (b) for “Commissioners” substitute “tribunal”.

Commencement Information

I339 Sch. 1 para. 345 in force at 1.4.2009, see [art. 1\(2\)](#)

346. In paragraph 44(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

Commencement Information

I340 Sch. 1 para. 346 in force at 1.4.2009, see [art. 1\(2\)](#)

347.—(1) Paragraph 49 (the index of defined expressions) is amended as follows.

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

(3) Following the entry for “tax ” insert—
“tribunal section 989 of ITA 2007”.

Commencement Information

I341 Sch. 1 para. 347 in force at 1.4.2009, see [art. 1\(2\)](#)

348. Schedule 4 (approved CSOP schemes) is amended as follows.

Commencement Information

I342 Sch. 1 para. 348 in force at 1.4.2009, see [art. 1\(2\)](#)

349.—(1) Paragraph 29 (appeal against refusal of approval) is amended as follows.

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

(3) in sub-paragraph (3)—

- (a) for “If the Special Commissioners allow the appeal, they may direct” substitute “If the appeal is notified to and allowed by the tribunal, the tribunal may direct”; and

(161) Paragraph 41 of Schedule 3 was amended by section 50 of, and paragraphs 103(2)(d) and 122(b) of Schedule 4 to, the Commissioners of Revenue and Customs Act 2005.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

Commencement Information

I343 Sch. 1 para. 349 in force at 1.4.2009, see [art. 1\(2\)](#)

350. In paragraph 32(2) (appeal against withdrawal of approval) omit “to the Special Commissioners”.

Commencement Information

I344 Sch. 1 para. 350 in force at 1.4.2009, see [art. 1\(2\)](#)

351.—(1) Paragraph 37 (index of defined expressions) is amended as follows.

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

(3) Following the entry for “shares” insert—
“tribunal section 989 of ITA 2007”.

Commencement Information

I345 Sch. 1 para. 351 in force at 1.4.2009, see [art. 1\(2\)](#)

352. Schedule 5 (enterprise management incentives) is amended as follows.

Commencement Information

I346 Sch. 1 para. 352 in force at 1.4.2009, see [art. 1\(2\)](#)

353.—(1) Paragraph 48 (completion of enquiry: application for closure notice to be given)(**162**) is amended as follows.

(2) In sub-paragraph (1) after “made” insert “to the tribunal”.

(3) Omit sub-paragraph (3).

(4) For sub-paragraph (4) substitute—

“(4) Any such application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).”.

(5) In sub-paragraph (5)—

(a) for “Those Commissioners” substitute “The tribunal”; and

(b) omit “they are”.

Commencement Information

I347 Sch. 1 para. 353 in force at 1.4.2009, see [art. 1\(2\)](#)

354. Omit paragraph 50(4).

(162) Paragraph 48 of Schedule 5 was amended by section 50 of, and paragraphs 103(1)(z), 102(2)(k), 103(3)(h) and 124(b) of Schedule 4 to, the Commissioners of Revenue and Customs Act 2005.

Commencement Information

I348 Sch. 1 para. 354 in force at 1.4.2009, see [art. 1\(2\)](#)

355.—(1) Paragraph 56 (determination of market value of shares) is amended as follows.

(2) In sub-paragraph (4) for “the company may give an officer of Revenue and Customs a notice requiring the question of the market value of the shares to be referred to the Commissioners” substitute “the company may apply to the tribunal for the question of the market value of the shares to be determined”.

(3) Omit sub-paragraph (5).

(4) For sub-paragraph (6) substitute—

“(6) Any such application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).”.

Commencement Information

I349 Sch. 1 para. 355 in force at 1.4.2009, see [art. 1\(2\)](#)

356. Omit paragraph 57(3).

Commencement Information

I350 Sch. 1 para. 356 in force at 1.4.2009, see [art. 1\(2\)](#)

357.—(1) Paragraph 59 (index of defined expressions) is amended as follows.

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

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

(4) Following the entry for “trade” insert—

“tribunal section 989 of ITA 2007”.

Commencement Information

I351 Sch. 1 para. 357 in force at 1.4.2009, see [art. 1\(2\)](#)

358. Omit paragraphs 129 and 142 of Schedule 6.

Commencement Information

I352 Sch. 1 para. 358 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I328 Sch. 1 para. 334 in force at 1.4.2009, see [art. 1\(2\)](#)

I329 Sch. 1 para. 335 in force at 1.4.2009, see [art. 1\(2\)](#)

I330 Sch. 1 para. 336 in force at 1.4.2009, see [art. 1\(2\)](#)

I331 Sch. 1 para. 337 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- I332 Sch. 1 para. 338 in force at 1.4.2009, see [art. 1\(2\)](#)
- I333 Sch. 1 para. 339 in force at 1.4.2009, see [art. 1\(2\)](#)
- I334 Sch. 1 para. 340 in force at 1.4.2009, see [art. 1\(2\)](#)
- I335 Sch. 1 para. 341 in force at 1.4.2009, see [art. 1\(2\)](#)
- I336 Sch. 1 para. 342 in force at 1.4.2009, see [art. 1\(2\)](#)
- I337 Sch. 1 para. 343 in force at 1.4.2009, see [art. 1\(2\)](#)
- I338 Sch. 1 para. 344 in force at 1.4.2009, see [art. 1\(2\)](#)
- I339 Sch. 1 para. 345 in force at 1.4.2009, see [art. 1\(2\)](#)
- I340 Sch. 1 para. 346 in force at 1.4.2009, see [art. 1\(2\)](#)
- I341 Sch. 1 para. 347 in force at 1.4.2009, see [art. 1\(2\)](#)
- I342 Sch. 1 para. 348 in force at 1.4.2009, see [art. 1\(2\)](#)
- I343 Sch. 1 para. 349 in force at 1.4.2009, see [art. 1\(2\)](#)
- I344 Sch. 1 para. 350 in force at 1.4.2009, see [art. 1\(2\)](#)
- I345 Sch. 1 para. 351 in force at 1.4.2009, see [art. 1\(2\)](#)
- I346 Sch. 1 para. 352 in force at 1.4.2009, see [art. 1\(2\)](#)
- I347 Sch. 1 para. 353 in force at 1.4.2009, see [art. 1\(2\)](#)
- I348 Sch. 1 para. 354 in force at 1.4.2009, see [art. 1\(2\)](#)
- I349 Sch. 1 para. 355 in force at 1.4.2009, see [art. 1\(2\)](#)
- I350 Sch. 1 para. 356 in force at 1.4.2009, see [art. 1\(2\)](#)
- I351 Sch. 1 para. 357 in force at 1.4.2009, see [art. 1\(2\)](#)
- I352 Sch. 1 para. 358 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2003

359. The Finance Act 2003(**163**) is amended as follows.

Commencement Information

I353 Sch. 1 para. 359 in force at 1.4.2009, see [art. 1\(2\)](#)

360.—(1) Section 24(3) (introductory) is amended as follows.

(2) In the definition of “appeal tribunal” for “a VAT and duties tribunal” substitute “the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal”.

(3) After the definition of “demand notice” insert—

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

Commencement Information

I354 Sch. 1 para. 360 in force at 1.4.2009, see [art. 1\(2\)](#)

361. In section 30(2)(a) (demands for penalties) for “36” substitute “33”.

Commencement Information

I355 Sch. 1 para. 361 in force at 1.4.2009, see [art. 1\(2\)](#)

362. For the cross-heading before section 33 substitute “*Appeals and reviews*”.

Commencement Information

I356 Sch. 1 para. 362 in force at 1.4.2009, see [art. 1\(2\)](#)

- 363.**—(1) Section 33 (right to review of certain decisions) is amended as follows.
- (2) For the heading substitute “Right to appeal against certain decisions”.
- (3) In subsection (1)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
 - (b) for “give a notice to the Commissioners requiring them to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (4) In subsection (2)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
 - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (5) In subsection (3) for “the Commissioners” substitute “HMRC”.
- (6) In subsection (4)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”;
 - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”; and
 - (c) in paragraph (b) for “Commissioners” substitute “HMRC”.
- (7) In subsection (5)—
- (a) for the first occurrence of “the Commissioners” substitute “HMRC”; and
 - (b) for “by notice require the Commissioners to review” substitute “make an appeal to an appeal tribunal in respect of”.
- (8) For subsection (6) substitute—
- “(6) The powers of an appeal tribunal on an appeal under this section include—
 - (a) power to quash or vary a decision; and
 - (b) power to substitute the tribunal’s own decision for any decision so quashed.
 - (7) On an appeal under this section—
 - (a) the burden of proof as to the matters mentioned in section 25(1) or 26(1) lies on HMRC; but
 - (b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.”.

Commencement Information

I357 Sch. 1 para. 363 in force at 1.4.2009, see [art. 1\(2\)](#)

- 364.** After section 33 insert—

“33A Offer of review

- (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 33 in respect of the decision.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

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

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

33B Review by HMRC

(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under section 33A, and
- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 33F.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

33C Extensions of time

(1) If under section 33A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

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

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

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

- (a) the period of 30 days referred to in section 33B(1)(b), or
- (b) if notice has been given under subsection (1) that period as extended (or as most recently extended) in accordance with subsection (2).

33D Review out of time

(1) This section applies if—

- (a) HMRC have offered a review of a decision under section 33A, and
- (b) P does not accept the offer within the time allowed under section 33B(1)(b) or 33C(2).

(2) HMRC must review the decision under section 33B if—

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

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

33E Nature of review etc

(1) This section applies if HMRC are required to undertake a review under section 33B or 33D.

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

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

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

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

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

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

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

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

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

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 33A), or
- (b) the date on which HMRC decided to undertake the review (in a case falling within section 33D).

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

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

33F Bringing of appeals

(1) An appeal under section 33 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of section 33C).

(2) But that is subject to subsections (3) to (5).

(3) In a case where HMRC are required to undertake a review under section 33C—

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

(4) In a case where HMRC are requested to undertake a review in accordance with section 33D—

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

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

(5) In a case where section 33E(8) applies, an appeal may be made at any time from the end of the period specified in section 33E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3) (b), (4)(b) or (5) if an appeal tribunal gives permission to do so.

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

Commencement Information

I358 Sch. 1 para. 364 in force at 1.4.2009, see [art. 1\(2\)](#)

365. Omit sections 34 to 36 and the cross-heading before section 36.

Commencement Information

I359 Sch. 1 para. 365 in force at 1.4.2009, see [art. 1\(2\)](#)

366. For section 37 (appeal tribunals) substitute—

“**37.** Appeal tribunals

Section 85 of the Value Added Tax Act 1994 (settling appeals by agreement) has effect as if the reference to section 83 of that Act included a reference to section 33 above.”.

Commencement Information

I360 Sch. 1 para. 366 in force at 1.4.2009, see [art. 1\(2\)](#)

367. In section 82(4) (loss or destruction of, or damage to, return etc) for “General or Special Commissioners having jurisdiction in the case” substitute “tribunal”.

Commencement Information

I361 Sch. 1 para. 367 in force at 1.4.2009, see [art. 1\(2\)](#)

368. In section 90(3)(g) (application to defer payment) for “General or Special Commissioners” substitute “tribunal”.

Commencement Information

I362 Sch. 1 para. 368 in force at 1.4.2009, see [art. 1\(2\)](#)

369.—(1) Section 103 (joint purchasers) is amended as follows.

(2) In subsection (5)(c) for “appear and be heard on the application” substitute “to be parties to the application”.

(3) In subsection (7)—

(a) for paragraph (d) substitute—

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

- “(d) if it is not settled, and is notified to the tribunal, any of them are entitled to be parties to the appeal, and”; and
- (b) for paragraph (e) substitute—
- “(e) the tribunal’s decision on the appeal binds all of them.”.
- (4) After subsection (7) insert—
- “(7A) In a case where subsection (7) applies and some (but not all) of the purchasers require HMRC to undertake a review under paragraph 36B or 36C of Schedule 10—
- (a) notification of the review must be given by HMRC to each of the other purchasers whose identity is known to HMRC,
- (b) any of the other purchasers may be a party to the review if they notify HMRC in writing,
- (c) the notice of HMRC’s conclusions must be given to each of the other purchasers whose identity is known to HMRC,
- (d) paragraph 36F of Schedule 10 (effect of conclusions of review) applies in relation to all of the purchasers, and
- (e) any of the purchasers may notify the appeal to the tribunal under paragraph 36G.”.

Commencement Information

I363 Sch. 1 para. 369 in force at 1.4.2009, see [art. 1\(2\)](#)

370. Omit section 115.

Commencement Information

I364 Sch. 1 para. 370 in force at 1.4.2009, see [art. 1\(2\)](#)

371.—(1) Section 121 (minor definitions) is amended as follows.

(2) After the definition of “employee” insert—

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

(3) After the definition of “tax” insert—

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

Commencement Information

I365 Sch. 1 para. 371 in force at 1.4.2009, see [art. 1\(2\)](#)

372. In section 122 (index of defined expressions) after the entry for “tax” insert “tribunal” in the first column and “section 121” in the second column.

Commencement Information

I366 Sch. 1 para. 372 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

373. Schedule 10 (stamp duty land tax: returns, enquiries, assessments and appeals) is amended as follows.

Commencement Information

I367 Sch. 1 para. 373 in force at 1.4.2009, see [art. 1\(2\)](#)

- 374.**—(1) Paragraph 5 is amended as follows.
- (2) In sub-paragraph (3) for “General or Special Commissioners” substitute “tribunal”.
- (3) In sub-paragraph (4) for “Commissioners” substitute “tribunal”.

Commencement Information

I368 Sch. 1 para. 374 in force at 1.4.2009, see [art. 1\(2\)](#)

- 375.** In paragraph 10(2) for “Commissioners” substitute “tribunal”.

Commencement Information

I369 Sch. 1 para. 375 in force at 1.4.2009, see [art. 1\(2\)](#)

- 376.** In paragraph 14(5)(b) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I370 Sch. 1 para. 376 in force at 1.4.2009, see [art. 1\(2\)](#)

- 377.**—(1) Paragraph 15 is amended as follows.
- (2) In sub-paragraph (3) omit “heard and”.
- (3) In sub-paragraph (4)—
- (a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and
- (b) omit “to them” in both places.
- (4) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.
- (5) For sub-paragraph (6) substitute—
- “(6) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 the decision of the tribunal on an appeal under this paragraph is final.”.

Commencement Information

I371 Sch. 1 para. 377 in force at 1.4.2009, see [art. 1\(2\)](#)

- 378.**—(1) Paragraph 19 is amended as follows.
- (2) In the heading for “Special Commissioners” substitute “the tribunal”.
- (3) In sub-paragraph (1) for “to the Special Commissioners for their determination” substitute “to the tribunal for determination”.

- (4) In sub-paragraph (2)—
 - (a) omit paragraph (b); and
 - (b) in paragraph (c) for “Special Commissioners” substitute “tribunal”.
- (5) Omit sub-paragraph (3).

Commencement Information

I372 Sch. 1 para. 378 in force at 1.4.2009, see [art. 1\(2\)](#)

- 379.**—(1) Paragraph 20 is amended as follows.
- (2) In sub-paragraph (1) omit “by notice in accordance with this paragraph”.
- (3) Omit sub-paragraph (2).

Commencement Information

I373 Sch. 1 para. 379 in force at 1.4.2009, see [art. 1\(2\)](#)

- 380.** In paragraph 21(3)(a) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I374 Sch. 1 para. 380 in force at 1.4.2009, see [art. 1\(2\)](#)

- 381.** In paragraph 22(1) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I375 Sch. 1 para. 381 in force at 1.4.2009, see [art. 1\(2\)](#)

- 382.**—(1) Paragraph 24 is amended as follows.
- (2) In sub-paragraph (1) for “General or Special Commissioners” substitute “tribunal”.
- (3) For sub-paragraph (2) substitute—
 - “(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.
- (4) In sub-paragraph (3)—
 - (a) for “Commissioners” substitute “tribunal”; and
 - (b) omit “they are”.

Commencement Information

I376 Sch. 1 para. 382 in force at 1.4.2009, see [art. 1\(2\)](#)

- 383.** For paragraph 33(4) substitute—
 - “(4) An appeal may be made against a decision on a claim for relief under this paragraph.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I377 Sch. 1 para. 383 in force at 1.4.2009, see [art. 1\(2\)](#)

384. In paragraph 34(6) for “, the Special Commissioners shall hear and” substitute “that is notified to the tribunal, the tribunal shall”.

Commencement Information

I378 Sch. 1 para. 384 in force at 1.4.2009, see [art. 1\(2\)](#)

385. For the heading of Part 7 substitute—

“Reviews and Appeals”

Commencement Information

I379 Sch. 1 para. 385 in force at 1.4.2009, see [art. 1\(2\)](#)

386.—(1) Paragraph 35 is amended as follows.

(2) Omit sub-paragraph (2).

(3) In sub-paragraph (3)—

(a) at the beginning insert “If”;

(b) after “self-assessment” insert “is”; and

(c) for “shall not be heard and determined” substitute “none of the steps mentioned in paragraph 36A(2)(a) to (c) may be taken in relation to the appeal”.

Commencement Information

I380 Sch. 1 para. 386 in force at 1.4.2009, see [art. 1\(2\)](#)

387. Omit paragraph 36(6).

Commencement Information

I381 Sch. 1 para. 387 in force at 1.4.2009, see [art. 1\(2\)](#)

388. After paragraph 36 insert the following—

“Appeal: HMRC review or determination by tribunal

36A.—(1) This paragraph applies if notice of appeal has been given to HMRC.

(2) In such a case—

(a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see paragraph 36B),

(b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 36C), or

(c) the appellant may notify the appeal to the tribunal (see paragraph 36D).

(3) See paragraphs 36G and 36H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

(4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 37(1) (settling of appeals by agreement).

Appellant requires review by HMRC

36B.—(1) Sub-paragraphs (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.

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

(3) HMRC must review the matter in question in accordance with paragraph 36E.

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

(a) the appellant has already given a notification under this paragraph in relation to the matter in question,

(b) HMRC have given a notification under paragraph 36C in relation to the matter in question, or

(c) the appellant has notified the appeal to the tribunal under paragraph 36D.

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

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

(b) such longer period as is reasonable.

HMRC offer review

36C.—(1) Sub-paragraphs (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.

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

(3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 36E.

(4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC's view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 37(1) for the settlement of that matter.

(5) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (4) applies.

(6) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36H.

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

(a) HMRC have already given a notification under this paragraph in relation to the matter in question,

(b) the appellant has given a notification under paragraph 36B in relation to the matter in question, or

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

(c) the appellant has notified the appeal to the tribunal under paragraph 36D.

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

Notifying appeal to the tribunal

36D.—(1) This paragraph applies in a case where paragraph 36A applies.

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

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

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

(a) HMRC have given a notification of their view of the matter in question under paragraph 36B, or

(b) HMRC have given a notification under paragraph 36C in relation to the matter in question.

(5) In a case falling within sub-paragraph (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by paragraph 36G or 36H.

Nature of review etc

36E.—(1) This paragraph applies if HMRC are required by paragraph 36B or 36C to review the matter in question.

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

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

(a) by HMRC in deciding the matter in question, and

(b) by any person in seeking to resolve disagreement about the matter in question.

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

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

(a) upheld,

(b) varied, or

(c) cancelled.

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

(a) the period of 45 days beginning with the relevant day, or

(b) such other period as may be agreed.

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

(a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,

(b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC's view of the matter in question (see paragraphs 36B(2) and 36C(2)) is upheld.

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

Effect of conclusions of review

36F.—(1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 36E).

(2) The conclusions are to be treated as if they were an agreement in writing under paragraph 37(1) for the settlement of the matter in question.

(3) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (2) applies.

(4) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36G.

Notifying appeal to tribunal after review concluded

36G.—(1) This paragraph applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 36E, or
- (b) the period specified in paragraph 36E(6) has ended and HMRC have not given notice of the conclusions of the review.

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

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

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

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

- (a) in a case falling within sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(6), or
- (b) in a case falling within sub-paragraph (1)(b), the period that—
 - (i) begins with the day following the last day of the period specified in paragraph 36E(6), and
 - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(9).

Notifying appeal to tribunal after review offered but not accepted

36H.—(1) This paragraph applies if—

- (a) HMRC have offered to review the matter in question (see paragraph 36C), and
- (b) the appellant has not accepted the offer.

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

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

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

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

(5) In this paragraph “acceptance period” has the same meaning as in paragraph 36C.

Other interpretation

36I.—(1) In paragraphs 36A to 36H—

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

(2) In paragraphs 36A to 36H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

- (a) notification of HMRC’s view under paragraph 36B(2),
- (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 36C,
- (c) notification of the conclusions of a review under paragraph 36E(6), and
- (d) notification of the conclusions of a review under paragraph 36E(9).

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

Commencement Information

I382 Sch. 1 para. 388 in force at 1.4.2009, see [art. 1\(2\)](#)

389. In paragraph 37(1) for “Commissioners” substitute “tribunal”.

Commencement Information

I383 Sch. 1 para. 389 in force at 1.4.2009, see [art. 1\(2\)](#)

390.—(1) Paragraph 38 is amended as follows.

- (2) In sub-paragraph (1) omit “to the Commissioners”.
- (3) In sub-paragraph (2) for “Commissioners” substitute “the tribunal”.

Commencement Information

I384 Sch. 1 para. 390 in force at 1.4.2009, see [art. 1\(2\)](#)

391.—(1) Paragraph 39 is amended as follows.

- (2) In the heading for “Commissioners” substitute “the tribunal”.
- (3) For sub-paragraph (1) substitute—

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

- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC's decision on the amount to be postponed.

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

(4) Omit sub-paragraph (2).

(5) In sub-paragraph (4) for “by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further” substitute “if the parties cannot agree on a revised determination, apply, at any time before the determination of the appeal, to the tribunal for a revised”.

(6) For sub-paragraph (5) substitute—

“(5) An application under this paragraph is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.

(7) In sub-paragraph (6) omit “to the Commissioners, having regard to the representations made and any evidence adduced”.

(8) In sub-paragraph (8) for “the Inland Revenue” substitute “HMRC”.

Commencement Information

I385 Sch. 1 para. 391 in force at 1.4.2009, see [art. 1\(2\)](#)

392. In paragraph 40(1) for “Commissioners” substitute “tribunal”.

Commencement Information

I386 Sch. 1 para. 392 in force at 1.4.2009, see [art. 1\(2\)](#)

393. After paragraph 40 add—

“Tribunal determinations

41. The determination of the tribunal in relation to any proceedings under the enactments relating to stamp duty land tax shall be final and conclusive except as otherwise provided in—

- (a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007,
- (b) the Taxes Management Act 1970 applied as modified, or
- (c) the enactments relating to stamp duty land tax.

Assessments and self assessments

42.—(1) In this paragraph any reference to an appeal means an appeal under paragraphs 33(4) or 35(1).

(2) If, on an appeal notified to the tribunal, the tribunal decides—

- (a) that the appellant is overcharged by a self-assessment; or
- (b) that the appellant is overcharged by an assessment other than a self-assessment,

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.

(3) If, on appeal it appears to the tribunal—

- (a) that the appellant is undercharged to stamp duty land tax by a self-assessment; or
- (b) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment shall be increased accordingly.

(4) Where, on an appeal against an assessment other than a self-assessment which—

- (a) assesses an amount which is chargeable to stamp duty land tax, and
- (b) charges stamp duty land tax on the amount assessed,

it appears to the tribunal as mentioned in sub-paragraphs (2) or (3), it may, unless the circumstances of the case otherwise require, reduce or increase only the amount assessed; and where an appeal is so determined the stamp duty land tax charged by that assessment shall be taken to have been reduced or increased accordingly.

Payment of stamp duty land tax where there is a further appeal

43.—(1) Where a party to an appeal to the tribunal under paragraph 35 makes a further appeal, notwithstanding that the further appeal is pending, stamp duty land tax shall nevertheless be payable or repayable in accordance with the determination of the tribunal or court as the case may be.

(2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—

- (a) if too much stamp duty land tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and
- (b) if too little stamp duty land tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.

Late notice of appeal

44.—(1) This paragraph applies in a case where—

- (a) notice of appeal may be given to HMRC under this Schedule or any other provision of Part 4 of this Act, but
- (b) no notice is given before the relevant time limit.

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

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

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

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

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

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

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

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

Questions to be determined by the relevant Lands Tribunal

45.—(1) Where the question in any dispute on any appeal under paragraphs 34(6) or 35(1) is a question of the market value of the subject matter of the land transaction that question shall be determined on a reference by the relevant Lands Tribunal.

(2) In this regulation “the relevant Lands Tribunal” means—

- (a) where the land is in England and Wales, the Lands Tribunal;
- (b) where the land is in Scotland, the Lands Tribunal for Scotland;
- (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

Meaning of HMRC

46 In this Schedule “HMRC” means Her Majesty’s Revenue and Customs.”.

Commencement Information

I387 Sch. 1 para. 393 in force at 1.4.2009, see [art. 1\(2\)](#)

394. In paragraph 5(2) of Schedule 11 (stamp duty land tax: record keeping etc) for “Commissioners” substitute “tribunal”.

Commencement Information

I388 Sch. 1 para. 394 in force at 1.4.2009, see [art. 1\(2\)](#)

395. Schedule 11A (stamp duty land tax: claims not included in returns)(**164**) is amended as follows.

Commencement Information

I389 Sch. 1 para. 395 in force at 1.4.2009, see [art. 1\(2\)](#)

396. In paragraph 3(4) for “Commissioners” substitute “tribunal”.

Commencement Information

I390 Sch. 1 para. 396 in force at 1.4.2009, see [art. 1\(2\)](#)

397.—(1) Paragraph 9 is amended as follows.

- (2) In sub-paragraph (3) omit “heard and”.
- (3) In sub-paragraph (4)—

(164) Schedule 11A was inserted by section 299(1) and (3) of, and Schedule 40 to, the [Finance Act 2004](#) (c. 12).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (a) for “the Commissioners” substitute “that is notified to the tribunal, the tribunal”; and
- (b) omit the words “to them” in both places.
- (4) In sub-paragraph (5) for “Commissioners” substitute “tribunal”.
- (5) For sub-paragraph (6) substitute—
 - “(6) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal on an appeal under this paragraph is final.”.

Commencement Information

I391 Sch. 1 para. 397 in force at 1.4.2009, see [art. 1\(2\)](#)

- 398.**—(1) Paragraph 12 is amended as follows.
- (2) In sub-paragraph (1) for “General or Special Commissioners” substitute “tribunal”.
 - (3) For sub-paragraph (2) substitute—
 - “(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).”.
 - (4) In sub-paragraph (3)—
 - (a) for “Commissioners hearing the application” substitute “tribunal”; and
 - (b) omit the words “they are”.

Commencement Information

I392 Sch. 1 para. 398 in force at 1.4.2009, see [art. 1\(2\)](#)

- 399.**—(1) Paragraph 14 is amended as follows.
- (2) Omit sub-paragraph (4).
 - (3) In sub-paragraph (5)—
 - (a) for “Paragraph 37” substitute “Paragraphs 36A to 37 and 44”; and
 - (b) for “it applies” substitute “they apply”.
 - (4) In sub-paragraphs (6) and (7) for “Commissioners” substitute “tribunal”.

Commencement Information

I393 Sch. 1 para. 399 in force at 1.4.2009, see [art. 1\(2\)](#)

- 400.** Omit paragraph 15.

Commencement Information

I394 Sch. 1 para. 400 in force at 1.4.2009, see [art. 1\(2\)](#)

- 401.** Schedule 13 (stamp duty land tax: information powers) is amended as follows.

Commencement Information

I395 Sch. 1 para. 401 in force at 1.4.2009, see [art. 1\(2\)](#)

- 402.**—(1) Paragraph 2 is amended as follows.
- (2) In the heading for “General or Special Commissioner” substitute “the tribunal”.
 - (3) In sub-paragraph (1) for “a General or Special Commissioner” substitute “the tribunal”.
 - (4) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.
 - (5) Omit sub-paragraph (3) and the words after sub-paragraph (3).

Commencement Information

I396 Sch. 1 para. 402 in force at 1.4.2009, see [art. 1\(2\)](#)

- 403.**—(1) Paragraph 4 is amended as follows.
- (2) In sub-paragraph (2)(b) for “General or Special Commissioner” substitute “tribunal”.
 - (3) In sub-paragraph (3)—
 - (a) for “A Commissioner” substitute “The tribunal”; and
 - (b) omit “he is”.

Commencement Information

I397 Sch. 1 para. 403 in force at 1.4.2009, see [art. 1\(2\)](#)

- 404.**—(1) Paragraph 7 is amended as follows.
- (2) In the heading for “General or Special Commissioner” substitute “the tribunal”.
 - (3) In sub-paragraph (1) for “a General or Special Commissioner” substitute “the tribunal”.
 - (4) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.
 - (5) Omit sub-paragraph (3).

Commencement Information

I398 Sch. 1 para. 404 in force at 1.4.2009, see [art. 1\(2\)](#)

- 405.**—(1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (2) for “a General or Special Commissioner” substitute “the tribunal”.
 - (3) In sub-paragraph (3) for “Commissioner” substitute “tribunal”.

Commencement Information

I399 Sch. 1 para. 405 in force at 1.4.2009, see [art. 1\(2\)](#)

- 406.**—(1) Paragraph 10 is amended as follows.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (2) In sub-paragraph (2)(b) for “General or Special Commissioner” substitute “tribunal”.
- (3) In sub-paragraph (3)—
 - (a) for “A Commissioner” substitute “The tribunal”,
 - (b) omit “he is”.

Commencement Information

I400 Sch. 1 para. 406 in force at 1.4.2009, see [art. 1\(2\)](#)

407.—(1) Paragraph 11 is amended as follows.

- (2) In sub-paragraph (1) for “a Special Commissioner gives his consent” substitute “the tribunal gives consent”.
- (3) In sub-paragraph (2) for “Commissioner” substitute “tribunal”.
- (4) In sub-paragraph (5) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I401 Sch. 1 para. 407 in force at 1.4.2009, see [art. 1\(2\)](#)

408.—(1) Paragraph 24 is amended as follows.

- (2) In sub-paragraph (3)(a) for “General or Special Commissioner” substitute “tribunal”.
- (3) In sub-paragraph (3)(b) for “a General or Special Commissioner” substitute “the tribunal”.
- (4) In sub-paragraph (4) for “Commissioner” substitute “tribunal”.

Commencement Information

I402 Sch. 1 para. 408 in force at 1.4.2009, see [art. 1\(2\)](#)

409. In paragraph 53(3)(a) for “a General or Special Commissioner” substitute “the tribunal”.

Commencement Information

I403 Sch. 1 para. 409 in force at 1.4.2009, see [art. 1\(2\)](#)

410. Schedule 14 (stamp duty land tax: determination of penalties and related appeals) is amended as follows.

Commencement Information

I404 Sch. 1 para. 410 in force at 1.4.2009, see [art. 1\(2\)](#)

- 411.**—(1) Paragraph 5 is amended as follows.
 - (2) In sub-paragraph (1) for “lies to the General or Special Commissioners” substitute “may be made”.
 - (3) For sub-paragraph (3) substitute—
 - “(3) The notice of appeal must specify the grounds of appeal.”.

- (4) In sub-paragraph (4)—
- (a) for “the Commissioners” substitute “that is notified to the First-tier Tribunal, the tribunal”;
 - (b) omit “to them” in each place; and
 - (c) for “as they consider appropriate” substitute “as the First-tier Tribunal considers appropriate”.
- (5) After sub-paragraph (4) insert—
- “(5) The provisions of paragraphs 36A to 36I of Schedule 10 apply to appeals under this paragraph.”.

Commencement Information

I405 Sch. 1 para. 411 in force at 1.4.2009, see [art. 1\(2\)](#)

412.—(1) Paragraph 6 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under paragraph (5), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.”.

(3) In sub-paragraph (2)—

- (a) for “court” substitute “Upper Tribunal”; and
 - (b) for “Special Commissioners” substitute “First-tier Tribunal”.
- (a) (4) (a) Omit sub-paragraph (3).

Commencement Information

I406 Sch. 1 para. 412 in force at 1.4.2009, see [art. 1\(2\)](#)

413. Omit Schedule 17.

Commencement Information

I407 Sch. 1 para. 413 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I353 Sch. 1 para. 359 in force at 1.4.2009, see [art. 1\(2\)](#)

I354 Sch. 1 para. 360 in force at 1.4.2009, see [art. 1\(2\)](#)

I355 Sch. 1 para. 361 in force at 1.4.2009, see [art. 1\(2\)](#)

I356 Sch. 1 para. 362 in force at 1.4.2009, see [art. 1\(2\)](#)

I357 Sch. 1 para. 363 in force at 1.4.2009, see [art. 1\(2\)](#)

I358 Sch. 1 para. 364 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- I359 Sch. 1 para. 365 in force at 1.4.2009, see [art. 1\(2\)](#)
- I360 Sch. 1 para. 366 in force at 1.4.2009, see [art. 1\(2\)](#)
- I361 Sch. 1 para. 367 in force at 1.4.2009, see [art. 1\(2\)](#)
- I362 Sch. 1 para. 368 in force at 1.4.2009, see [art. 1\(2\)](#)
- I363 Sch. 1 para. 369 in force at 1.4.2009, see [art. 1\(2\)](#)
- I364 Sch. 1 para. 370 in force at 1.4.2009, see [art. 1\(2\)](#)
- I365 Sch. 1 para. 371 in force at 1.4.2009, see [art. 1\(2\)](#)
- I366 Sch. 1 para. 372 in force at 1.4.2009, see [art. 1\(2\)](#)
- I367 Sch. 1 para. 373 in force at 1.4.2009, see [art. 1\(2\)](#)
- I368 Sch. 1 para. 374 in force at 1.4.2009, see [art. 1\(2\)](#)
- I369 Sch. 1 para. 375 in force at 1.4.2009, see [art. 1\(2\)](#)
- I370 Sch. 1 para. 376 in force at 1.4.2009, see [art. 1\(2\)](#)
- I371 Sch. 1 para. 377 in force at 1.4.2009, see [art. 1\(2\)](#)
- I372 Sch. 1 para. 378 in force at 1.4.2009, see [art. 1\(2\)](#)
- I373 Sch. 1 para. 379 in force at 1.4.2009, see [art. 1\(2\)](#)
- I374 Sch. 1 para. 380 in force at 1.4.2009, see [art. 1\(2\)](#)
- I375 Sch. 1 para. 381 in force at 1.4.2009, see [art. 1\(2\)](#)
- I376 Sch. 1 para. 382 in force at 1.4.2009, see [art. 1\(2\)](#)
- I377 Sch. 1 para. 383 in force at 1.4.2009, see [art. 1\(2\)](#)
- I378 Sch. 1 para. 384 in force at 1.4.2009, see [art. 1\(2\)](#)
- I379 Sch. 1 para. 385 in force at 1.4.2009, see [art. 1\(2\)](#)
- I380 Sch. 1 para. 386 in force at 1.4.2009, see [art. 1\(2\)](#)
- I381 Sch. 1 para. 387 in force at 1.4.2009, see [art. 1\(2\)](#)
- I382 Sch. 1 para. 388 in force at 1.4.2009, see [art. 1\(2\)](#)
- I383 Sch. 1 para. 389 in force at 1.4.2009, see [art. 1\(2\)](#)
- I384 Sch. 1 para. 390 in force at 1.4.2009, see [art. 1\(2\)](#)
- I385 Sch. 1 para. 391 in force at 1.4.2009, see [art. 1\(2\)](#)
- I386 Sch. 1 para. 392 in force at 1.4.2009, see [art. 1\(2\)](#)
- I387 Sch. 1 para. 393 in force at 1.4.2009, see [art. 1\(2\)](#)
- I388 Sch. 1 para. 394 in force at 1.4.2009, see [art. 1\(2\)](#)
- I389 Sch. 1 para. 395 in force at 1.4.2009, see [art. 1\(2\)](#)
- I390 Sch. 1 para. 396 in force at 1.4.2009, see [art. 1\(2\)](#)
- I391 Sch. 1 para. 397 in force at 1.4.2009, see [art. 1\(2\)](#)
- I392 Sch. 1 para. 398 in force at 1.4.2009, see [art. 1\(2\)](#)
- I393 Sch. 1 para. 399 in force at 1.4.2009, see [art. 1\(2\)](#)
- I394 Sch. 1 para. 400 in force at 1.4.2009, see [art. 1\(2\)](#)
- I395 Sch. 1 para. 401 in force at 1.4.2009, see [art. 1\(2\)](#)
- I396 Sch. 1 para. 402 in force at 1.4.2009, see [art. 1\(2\)](#)
- I397 Sch. 1 para. 403 in force at 1.4.2009, see [art. 1\(2\)](#)
- I398 Sch. 1 para. 404 in force at 1.4.2009, see [art. 1\(2\)](#)
- I399 Sch. 1 para. 405 in force at 1.4.2009, see [art. 1\(2\)](#)
- I400 Sch. 1 para. 406 in force at 1.4.2009, see [art. 1\(2\)](#)
- I401 Sch. 1 para. 407 in force at 1.4.2009, see [art. 1\(2\)](#)
- I402 Sch. 1 para. 408 in force at 1.4.2009, see [art. 1\(2\)](#)
- I403 Sch. 1 para. 409 in force at 1.4.2009, see [art. 1\(2\)](#)
- I404 Sch. 1 para. 410 in force at 1.4.2009, see [art. 1\(2\)](#)
- I405 Sch. 1 para. 411 in force at 1.4.2009, see [art. 1\(2\)](#)
- I406 Sch. 1 para. 412 in force at 1.4.2009, see [art. 1\(2\)](#)
- I407 Sch. 1 para. 413 in force at 1.4.2009, see [art. 1\(2\)](#)

Child Trust Funds Act 2004

414. The Child Trust Funds Act 2004(165) is amended as follows.

Commencement Information

I408 Sch. 1 para. 414 in force at 1.4.2009, see [art. 1\(2\)](#)

415.—(1) Section 21 (decisions, appeals, mitigation and recovery) is amended as follows.

(2) In subsection (9)—

(a) for “General Commissioners or Special Commissioners” substitute “appropriate tribunal”; and

(b) in paragraphs (c) and (d) for “they consider” substitute “the tribunal considers”.

(3) For subsection (10) substitute—

“(10) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of a penalty which has been determined under subsection (9), but not against any decision which falls under section 11(5)(d) and (e) of that Act and was made in connection with the determination of the amount of the penalty.

(10A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under subsection (10) as it applies to the right of appeal under section 11(2) of that Act.

(10B) On an appeal under this section the Upper Tribunal has a similar jurisdiction to that conferred on the First-tier Tribunal by virtue of this section.

(10C) In Northern Ireland, an appeal from a decision of the appropriate tribunal lies, at the instance of the person on whom the penalty was imposed to a Northern Ireland Social Security Commissioner, who shall have a similar jurisdiction on such an appeal to that conferred on the appeal tribunal by subsection (9).”.

Commencement Information

I409 Sch. 1 para. 415 in force at 1.4.2009, see [art. 1\(2\)](#)

416.—(1) Section 23 (exercise of rights of appeal) is amended as follows.

(2) For subsection (3) substitute—

“(3) An appeal under section 22 is to the appropriate tribunal.”.

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

(4) For subsection (6) substitute—

“(6) Regulations may apply (with or without modifications) any provision contained in—

(a) the Social Security Act 1998 (c. 14) (social security appeals: Great Britain),

(b) the Social Security (Northern Ireland) Order 1998 (SI 1998/1506 (NI 10))(social security appeals: Northern Ireland), or

(c) section 54 of the Taxes Management Act 1970 (settling of appeals by agreement),

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

in relation to appeals which by virtue of this section are to the appropriate tribunal or in relation to appeals under this Act which lie to a Social Security Commissioner.”.

(5) Omit subsection (7).

Commencement Information

I410 Sch. 1 para. 416 in force at 1.4.2009, see [art. 1\(2\)](#)

417. Omit section 24 (temporary modifications).

Commencement Information

I411 Sch. 1 para. 417 in force at 1.4.2009, see [art. 1\(2\)](#)

418.—(1) Section 29 (interpretation) is amended as follows.

(2) After the definition of “account provider” insert—

““appropriate tribunal” means

- (a) the First-tier Tribunal, or
- (b) in Northern Ireland, an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998,”.

(3) Omit the definitions of “the General Commissioners” and “the Special Commissioners”.

(4) Before the definition of “responsible person” insert—

““Northern Ireland Social Security Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992 (c. 8) or a tribunal of two or more Commissioners constituted under article 16(7) of the Social Security (Northern Ireland) Order 1998, and”.

Commencement Information

I412 Sch. 1 para. 418 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I408 Sch. 1 para. 414 in force at 1.4.2009, see [art. 1\(2\)](#)

I409 Sch. 1 para. 415 in force at 1.4.2009, see [art. 1\(2\)](#)

I410 Sch. 1 para. 416 in force at 1.4.2009, see [art. 1\(2\)](#)

I411 Sch. 1 para. 417 in force at 1.4.2009, see [art. 1\(2\)](#)

I412 Sch. 1 para. 418 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2004

419. The Finance Act 2004(**166**) is amended as follows.

Commencement Information

I413 Sch. 1 para. 419 in force at 1.4.2009, see [art. 1\(2\)](#)

420. In section 59(4)(b) (contractors) for “Commissioners” substitute “tribunal”.

Commencement Information

I414 Sch. 1 para. 420 in force at 1.4.2009, see [art. 1\(2\)](#)

421.—(1) Section 67 (registration for gross payment: appeals) is amended as follows.

(2) In subsection (1) omit “to the General Commissioners or, if the person so elects in the notice, to the Special Commissioners”.

(3) In subsection (4)—

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

(4) In subsection (5)—

- (a) in paragraph (b) for “Commissioners” substitute “tribunal”; and
- (b) in paragraph (c) for “appropriate court” substitute “Upper Tribunal or a court”.

(5) Omit subsection (6).

Commencement Information

I415 Sch. 1 para. 421 in force at 1.4.2009, see [art. 1\(2\)](#)

422.—(1) Section 114 (refusal to issue certificate and appeal against refusal) is amended as follows.

(2) In subsection (4) omit “to the Special Commissioners”.

^{F9}(3)

Textual Amendments

F9 Sch. 1 para. 422(3) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, [Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9)

Commencement Information

I416 Sch. 1 para. 422 in force at 1.4.2009, see [art. 1\(2\)](#)

423.—(1) Section 156 (appeal against a decision not to register) is amended as follows.

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

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal under this section that is notified to the tribunal, the tribunal”.

(4) In subsection (7)—

- (a) for “they decide” substitute “the tribunal decides”; and

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (b) for “they must” substitute “the tribunal must”.
- (5) In subsection (8)—
 - (a) for “they decide” substitute “the tribunal decides”;
 - (b) for “Commissioners determine” substitute “tribunal determines”;
 - (c) omit “or any determination on, or in consequence of, a case stated”.

Commencement Information

I417 Sch. 1 para. 423 in force at 1.4.2009, see [art. 1\(2\)](#)

- 424.**—(1) Section 159 (appeal against decision to de-register) is amended as follows.
- (2) Omit subsections (3) and (4).
 - (3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.
 - (4) In subsection (7)—
 - (a) for “they decide” substitute “the tribunal decides”; and
 - (b) for “they must” substitute “the tribunal must”.
 - (5) In subsection (8)—
 - (a) for “they decide” substitute “the tribunal decides”; and
 - (b) omit “or any determination on, or in consequence of, a case stated”.

Commencement Information

I418 Sch. 1 para. 424 in force at 1.4.2009, see [art. 1\(2\)](#)

- 425.**—(1) Section 170 (appeal against decision to exclude recognised overseas pension scheme) is amended as follows.
- (2) Omit subsections (3) and (4).
 - (3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.
 - (4) In subsection (7)—
 - (a) for “they decide” substitute “the tribunal decides”; and
 - (b) for “they must” substitute “the tribunal must”.
 - (5) In subsection (8)—
 - (a) for “they decide” substitute “the tribunal decides”; and
 - (b) omit “or any determination on, or in consequence of, a case stated”.

Commencement Information

I419 Sch. 1 para. 425 in force at 1.4.2009, see [art. 1\(2\)](#)

- 426.**—(1) Section 253 (appeal against notices) is amended as follows.
- (2) Omit subsections (3) and (4).

(3) In subsection (6) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsections (7) and (8)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) for “they must” substitute “the tribunal must”.

(5) For subsection (10) substitute—

“(10) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal is final and conclusive.”.

Commencement Information

I420 Sch. 1 para. 426 in force at 1.4.2009, see [art. 1\(2\)](#)

427.—(1) Section 269 (appeal against decision on discharge of liability) is amended as follows.

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

(3) In subsection (6) for “The Commissioners before whom an appeal under subsection (1)(a) is brought” substitute “On an appeal under subsection (1)(a) that is notified to the tribunal, the tribunal”.

(4) In subsections (7) and (8)—

(a) for “they consider” substitute “the tribunal considers”; and

(b) for “they must” substitute “the tribunal must”.

(5) In subsection (9) for “The Commissioners before whom an appeal under subsection (1)(b) is brought” substitute “On an appeal under subsection (1)(b) that is notified to the tribunal, the tribunal”.

(6) In subsections (10) and (11)—

(a) for “they consider” substitute “the tribunal considers”; and

(b) for “they must” substitute “the tribunal must”.

Commencement Information

I421 Sch. 1 para. 427 in force at 1.4.2009, see [art. 1\(2\)](#)

428.—(1) Section 271 (liability of scheme administrator) is amended as follows.

(2) Omit subsections (8) and (10).

(3) In subsection (11) for “The Commissioners before whom an appeal under this section is brought” substitute “On an appeal that is notified to the tribunal, the tribunal”.

(4) In subsection (12)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) for “they must” substitute “the tribunal must”.

(5) In subsection (13)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) omit “or any determination on, or in consequence of, a case stated”.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the *The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1*. (See end of Document for details)

Commencement Information

I422 Sch. 1 para. 428 in force at 1.4.2009, see [art. 1\(2\)](#)

429. In section 306A(1) and (3) (doubt as to notifiability)(**167**) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I423 Sch. 1 para. 429 in force at 1.4.2009, see [art. 1\(2\)](#)

430. In section 308A(2) and (3) (supplemental information) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I424 Sch. 1 para. 430 in force at 1.4.2009, see [art. 1\(2\)](#)

431. In section 313B(1) (reasons for non-disclosure: supporting information) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I425 Sch. 1 para. 431 in force at 1.4.2009, see [art. 1\(2\)](#)

432. In section 314A(1) and (3) (order to disclose) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I426 Sch. 1 para. 432 in force at 1.4.2009, see [art. 1\(2\)](#)

433. Omit section 317A.

Commencement Information

I427 Sch. 1 para. 433 in force at 1.4.2009, see [art. 1\(2\)](#)

434.—(1) Section 318(1) (interpretation of Part 7)(**168**) is amended as follows.

(2) Omit the definition of “the Special Commissioners”.

(3) After the definition of “tax” insert—

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

(167) Sections 306A, 308A, 313B, 314A and 317A were inserted by section 108(2) and (4) to (7) of the [Finance Act 2007 \(c. 11\)](#)

(168) The definition of “the Special Commissioners” was inserted by section 108(1), (8) and (10) of the Finance Act 2007.

Commencement Information

I428 Sch. 1 para. 434 in force at 1.4.2009, see [art. 1\(2\)](#)

435.—(1) Paragraph 6 of Schedule 33 (overseas pension schemes: migrant member relief) is amended as follows.

(2) Omit sub-paragraphs (3) and (4).

(3) In sub-paragraph (6) for “The Commissioners before whom an appeal under this paragraph is brought” substitute “If an appeal under this paragraph is notified to the tribunal, the tribunal”.

(4) In sub-paragraph (7) for “they decide” substitute “the tribunal decides” and for “they must” substitute “the tribunal must”.

(5) In sub-paragraph (8)—

(a) for “they decide” substitute “the tribunal decides”; and

(b) omit “or any determination on, or in consequence of, a case stated.”.

Commencement Information

I429 Sch. 1 para. 435 in force at 1.4.2009, see [art. 1\(2\)](#)

Textual Amendments

F9 Sch. 1 para. 422(3) revoked (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381, [Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9)

Commencement Information

I413 Sch. 1 para. 419 in force at 1.4.2009, see [art. 1\(2\)](#)

I414 Sch. 1 para. 420 in force at 1.4.2009, see [art. 1\(2\)](#)

I415 Sch. 1 para. 421 in force at 1.4.2009, see [art. 1\(2\)](#)

I416 Sch. 1 para. 422 in force at 1.4.2009, see [art. 1\(2\)](#)

I417 Sch. 1 para. 423 in force at 1.4.2009, see [art. 1\(2\)](#)

I418 Sch. 1 para. 424 in force at 1.4.2009, see [art. 1\(2\)](#)

I419 Sch. 1 para. 425 in force at 1.4.2009, see [art. 1\(2\)](#)

I420 Sch. 1 para. 426 in force at 1.4.2009, see [art. 1\(2\)](#)

I421 Sch. 1 para. 427 in force at 1.4.2009, see [art. 1\(2\)](#)

I422 Sch. 1 para. 428 in force at 1.4.2009, see [art. 1\(2\)](#)

I423 Sch. 1 para. 429 in force at 1.4.2009, see [art. 1\(2\)](#)

I424 Sch. 1 para. 430 in force at 1.4.2009, see [art. 1\(2\)](#)

I425 Sch. 1 para. 431 in force at 1.4.2009, see [art. 1\(2\)](#)

I426 Sch. 1 para. 432 in force at 1.4.2009, see [art. 1\(2\)](#)

I427 Sch. 1 para. 433 in force at 1.4.2009, see [art. 1\(2\)](#)

I428 Sch. 1 para. 434 in force at 1.4.2009, see [art. 1\(2\)](#)

I429 Sch. 1 para. 435 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Constitutional Reform Act 2005

436. In Part 3 of Schedule 14 to the Constitutional Reform Act 2005 (appointments by Lord Chancellor: offices to which paragraph 2(2)(d) of Schedule 12 applies)(**169**) omit the entries relating to—

- (a) Special Commissioner and the Presiding Special Commissioner (under section 4(1) of the Taxes Management Act 1970);
- (b) Deputy Special Commissioner (under section 4A(1) of the Taxes Management Act 1970);
- (c) Chairman and member of a section 706 tribunal (under section 706 of the Income and Corporation Taxes Act 1988);
- (d) President of VAT tribunals (under paragraph 2(2) of Schedule 12 to the Value Added Tax Act 1994);
- (e) Member of a panel of chairmen (under paragraph 7(3)(a) of Schedule 12 to the Value Added Tax Act 1994);
- (f) Chairman and member of a section 704 tribunal (under section 704 of the Income Tax Act 2007); and
- (g) Member of panel of assessors to assist Special Commissioners (under section 320(3)(b) of the Proceeds of Crime Act 2002).

Commencement Information

I430 Sch. 1 para. 436 in force at 1.4.2009, see [art. 1\(2\)](#)

Income Tax (Trading and Other Income) Act 2005

437. The Income Tax (Trading and Other Income) Act 2005(**170**) is amended as follows.

Commencement Information

I431 Sch. 1 para. 437 in force at 1.4.2009, see [art. 1\(2\)](#)

438.—(1) In section 54(2) (penalties, interest and VAT surcharges), the first column of the table is amended as follows.

- (2) In the entry relating to interest under section 74 of VATA 1994 after “74” insert “or 85A”.
- (3) For the entry relating to interest under paragraph 21 of Schedule 7 to FA 1994 substitute “Interest under section 60(8) of FA 1994 or paragraph 21 of Schedule 7 to FA 1994”.
- (4) For the entry relating to interest under paragraph 26 or 27 of Schedule 5 to FA 1996 substitute “Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996”.
- (5) In the entry relating to interest under any of paragraphs 70, 81 to 85 and 109 of Schedule 6 to FA 2000 for “and 109” substitute “, 109 and 123(6)”.
- (6) In the entry relating to interest under certain paragraphs of Schedules 5, 8 and 10 to FA 2001—
 - (a) after “under” insert “section 42(6) of, or”; and
 - (b) for “to FA 2001” substitute “to, FA 2001”.

(169)2005 c. 4.

(170)2005 c. 5.

Commencement Information

I432 Sch. 1 para. 438 in force at 1.4.2009, see [art. 1\(2\)](#)

- 439.**—(1) Section 186 (determination of questions by Commissioners) is amended as follows.
- (2) In the heading omit “by Commissioners”.
 - (3) In subsection (1) omit “by the General or Special Commissioners”.
 - (4) Omit subsections (2) to (4).

Commencement Information

I433 Sch. 1 para. 439 in force at 1.4.2009, see [art. 1\(2\)](#)

- 440.**—(1) Section 218 (commercial reasons for change of accounting date) is amended as follows.
- (2) In subsection (5)—
 - (a) after “appeal” insert “that is notified to the tribunal”;
 - (b) in paragraph (a)—
 - (i) for “Commissioners are” substitute “tribunal is”;
 - (ii) for “they” substitute “the tribunal”; and
 - (c) in paragraph (b)—
 - (i) for “they are” substitute “the tribunal is”;
 - (ii) for “they may” substitute “the tribunal may”.

Commencement Information

I434 Sch. 1 para. 440 in force at 1.4.2009, see [art. 1\(2\)](#)

441. In section 646(7) (adjustments between settlor and trustees etc) for “General Commissioners whose decision is final” substitute “tribunal and, notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal is final”.

Commencement Information

I435 Sch. 1 para. 441 in force at 1.4.2009, see [art. 1\(2\)](#)

- 442.**—(1) In section 869 (penalties, interest and VAT surcharges: non-trades etc), the first column of the table in subsection (4) is amended as follows.
- (2) In the entry relating to interest under section 74 of VATA 1994 after “74” insert “or 85A”.
 - (3) For the entry relating to interest under paragraph 21 of Schedule 7 to FA 1994 substitute “Interest under section 60(8) of FA 1994 or paragraph 21 to Schedule 7 to FA 1994”.
 - (4) For the entry relating to interest under paragraph 26 or 27 of Schedule 5 to FA 1996 substitute “Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996”.
 - (5) In the entry relating to interest under any of paragraphs 70, 81 to 85 and 109 of Schedule 6 to FA 2000 for “and 109” insert “, 109 and 123(6)”.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (6) In the entry relating to interest under certain paragraphs of Schedules 5, 8 and 10 to FA 2001—
 - (a) after “under” insert “section 42(6) of, or”; and
 - (b) for “to FA 2001” substitute “to, FA 2001”.

.....

Commencement Information
I436 Sch. 1 para. 442 in force at 1.4.2009, see [art. 1\(2\)](#)

443. Omit paragraphs 373 to 375 and 383 of Schedule 1.

.....

Commencement Information
I437 Sch. 1 para. 443 in force at 1.4.2009, see [art. 1\(2\)](#)

444. In paragraph 153 of Schedule 2 omit sub-paragraphs (3) and (4).

.....

Commencement Information
I438 Sch. 1 para. 444 in force at 1.4.2009, see [art. 1\(2\)](#)

.....

Commencement Information
I431 Sch. 1 para. 437 in force at 1.4.2009, see [art. 1\(2\)](#)
I432 Sch. 1 para. 438 in force at 1.4.2009, see [art. 1\(2\)](#)
I433 Sch. 1 para. 439 in force at 1.4.2009, see [art. 1\(2\)](#)
I434 Sch. 1 para. 440 in force at 1.4.2009, see [art. 1\(2\)](#)
I435 Sch. 1 para. 441 in force at 1.4.2009, see [art. 1\(2\)](#)
I436 Sch. 1 para. 442 in force at 1.4.2009, see [art. 1\(2\)](#)
I437 Sch. 1 para. 443 in force at 1.4.2009, see [art. 1\(2\)](#)
I438 Sch. 1 para. 444 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2005

445. In section 40(4) of the Finance Act 2005 (power to make enquiries)(**171**) omit “to the General Commissioners”.

.....

Commencement Information
I439 Sch. 1 para. 445 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2006

^{F10}**446.**

(171)2005 c. 7.

Textual Amendments

F10 Sch. 1 paras. 446-449 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F10 447.

Textual Amendments

F10 Sch. 1 paras. 446-449 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F10 448.

Textual Amendments

F10 Sch. 1 paras. 446-449 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F10 449.

Textual Amendments

F10 Sch. 1 paras. 446-449 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Textual Amendments

F10 Sch. 1 paras. 446-449 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Income Tax Act 2007

450. The Income Tax Act 2007(**172**) is amended as follows.

Commencement Information

I440 Sch. 1 para. 450 in force at 1.4.2009, see **art. 1(2)**

451. In section 341(3)(a) (terms and conditions of accreditation) for “Special Commissioners” substitute “tribunal”.

Commencement Information

I441 Sch. 1 para. 451 in force at 1.4.2009, see **art. 1(2)**

452. Omit section 538(4).

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Commencement Information

I442 Sch. 1 para. 452 in force at 1.4.2009, see [art. 1\(2\)](#)

453. In section 557(2) (substantial donor transactions: supplementary) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.

Commencement Information

I443 Sch. 1 para. 453 in force at 1.4.2009, see [art. 1\(2\)](#)

454. For section 674(7) (meaning of “the settlement day”) substitute—

“(7) On any appeal that is notified to the tribunal, the jurisdiction of the tribunal includes jurisdiction to affirm or replace such a decision.”.

Commencement Information

I444 Sch. 1 para. 454 in force at 1.4.2009, see [art. 1\(2\)](#)

455.—(1) Section 692(2) (abnormal dividends: general) is amended as follows.

(2) In paragraph (b) after “Customs,” insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) the tribunal.”

Commencement Information

I445 Sch. 1 para. 455 in force at 1.4.2009, see [art. 1\(2\)](#)

456. In section 697(2) (opposed notifications: determinations by tribunal) omit “appointed under section 704”.

Commencement Information

I446 Sch. 1 para. 456 in force at 1.4.2009, see [art. 1\(2\)](#)

457. In section 698(1)(b) (counteraction notices) for “to which such a declaration is sent” substitute “having been sent such a declaration”.

Commencement Information

I447 Sch. 1 para. 457 in force at 1.4.2009, see [art. 1\(2\)](#)

458. Omit section 704 (and the cross-heading “The tribunal” before it).

Commencement Information

I448 Sch. 1 para. 458 in force at 1.4.2009, see [art. 1\(2\)](#)

- 459.**—(1) Section 705 (appeals against counteraction notices) is amended as follows.
- (2) In subsection (1) omit “to the Special Commissioners”.
- (3) In subsection (3) for “the Special Commissioners” substitute “that is notified to the tribunal, the tribunal”.
- (4) In subsection (4) omit “(or a request for its rehearing under section 706)”.

Commencement Information

I449 Sch. 1 para. 459 in force at 1.4.2009, see [art. 1\(2\)](#)

- 460.** Omit sections 706 to 711.

Commencement Information

I450 Sch. 1 para. 460 in force at 1.4.2009, see [art. 1\(2\)](#)

- 461.**—(1) Section 751 (Special Commissioners’ jurisdiction on appeals) is amended as follows.
- (2) In the heading for “Special Commissioners” substitute “The tribunal’s”.
- (3) For “The jurisdiction of the Special Commissioners on any appeal” substitute “On any appeal that is notified to the tribunal, the jurisdiction of the tribunal”.

Commencement Information

I451 Sch. 1 para. 461 in force at 1.4.2009, see [art. 1\(2\)](#)

- 462.** In section 989 (the definitions) after the definition of “trade” insert—
- ““tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.”.

Commencement Information

I452 Sch. 1 para. 462 in force at 1.4.2009, see [art. 1\(2\)](#)

- 463.** In Schedule 1 omit paragraphs 243, 250, 255, 256, 267 and 351.

Commencement Information

I453 Sch. 1 para. 463 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I440 Sch. 1 para. 450 in force at 1.4.2009, see [art. 1\(2\)](#)
I441 Sch. 1 para. 451 in force at 1.4.2009, see [art. 1\(2\)](#)
I442 Sch. 1 para. 452 in force at 1.4.2009, see [art. 1\(2\)](#)
I443 Sch. 1 para. 453 in force at 1.4.2009, see [art. 1\(2\)](#)
I444 Sch. 1 para. 454 in force at 1.4.2009, see [art. 1\(2\)](#)
I445 Sch. 1 para. 455 in force at 1.4.2009, see [art. 1\(2\)](#)
I446 Sch. 1 para. 456 in force at 1.4.2009, see [art. 1\(2\)](#)

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- I447 Sch. 1 para. 457 in force at 1.4.2009, see [art. 1\(2\)](#)
- I448 Sch. 1 para. 458 in force at 1.4.2009, see [art. 1\(2\)](#)
- I449 Sch. 1 para. 459 in force at 1.4.2009, see [art. 1\(2\)](#)
- I450 Sch. 1 para. 460 in force at 1.4.2009, see [art. 1\(2\)](#)
- I451 Sch. 1 para. 461 in force at 1.4.2009, see [art. 1\(2\)](#)
- I452 Sch. 1 para. 462 in force at 1.4.2009, see [art. 1\(2\)](#)
- I453 Sch. 1 para. 463 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2007

464. The Finance Act 2007(**173**) is amended as follows.

Commencement Information

I454 Sch. 1 para. 464 in force at 1.4.2009, see [art. 1\(2\)](#)

465. Omit section 108(10)(a).

Commencement Information

I455 Sch. 1 para. 465 in force at 1.4.2009, see [art. 1\(2\)](#)

466. For paragraph 16 of Schedule 24 (penalties) substitute—

“16.—(1) An appeal under this Part of this Schedule shall be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

(2) Sub-paragraph (1) does not apply in respect of a matter expressly provided for by this Act.”.

Commencement Information

I456 Sch. 1 para. 466 in force at 1.4.2009, see [art. 1\(2\)](#)

467.—(1) Paragraph 17 is amended as follows.

(2) In sub-paragraphs (1), (2) and (3) omit “appellate” in each place.

(3) In sub-paragraph (4)—

(a) in paragraph (a) omit “appellate”; and

(b) in paragraph (b)—

(i) omit “appellate” in the first place in which it occurs;

(ii) in sub-paragraph (i) omit “to the appellate tribunal”;

(iii) in sub-paragraph (ii) omit “appellate”.

(4) In sub-paragraph (5) omit “appellate” in each place.

(5) After sub-paragraph (5) insert—

“(5A) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 16(1)).”.

Commencement Information

I457 Sch. 1 para. 467 in force at 1.4.2009, see [art. 1\(2\)](#)

Commencement Information

I454 Sch. 1 para. 464 in force at 1.4.2009, see [art. 1\(2\)](#)

I455 Sch. 1 para. 465 in force at 1.4.2009, see [art. 1\(2\)](#)

I456 Sch. 1 para. 466 in force at 1.4.2009, see [art. 1\(2\)](#)

I457 Sch. 1 para. 467 in force at 1.4.2009, see [art. 1\(2\)](#)

Finance Act 2008

468. The Finance Act 2008(**174**) is amended as follows.

Commencement Information

I458 Sch. 1 para. 468 in force at 1.4.2009, see [art. 1\(2\)](#)

469. Omit section 119(12)(a)(i) and (ii).

Commencement Information

I459 Sch. 1 para. 469 in force at 1.4.2009, see [art. 1\(2\)](#)

470. Omit paragraph 161 of Schedule 7.

Commencement Information

I460 Sch. 1 para. 470 in force at 1.4.2009, see [art. 1\(2\)](#)

471.—(1) Schedule 36 (information and inspection powers) is amended as follows.

(2) In paragraphs 2(2), 5(3) and (4), 6(3), 12(5), 35(5), 37(6), 39(1)(b), 53(1)(b) and 54(1)(b) for “First-tier Tribunal”, in each place, substitute “tribunal”.

(3) In paragraph 3—

(a) in sub-paragraph (1)(b) for “First-tier Tribunal” substitute “tribunal”;

(b) in sub-paragraph (2) for “First-tier Tribunal” substitute “tribunal”;

(c) in sub-paragraph (3)—

(i) for “First-tier Tribunal”, in both places, substitute “tribunal”;

(ii) in paragraph (b) for “Tribunal” substitute “tribunal”;

(d) in sub-paragraph (4) for “First-tier Tribunal” substitute “tribunal”; and

(e) in sub-paragraph (5) for “First-tier Tribunal” substitute “tribunal”.

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

- (4) In paragraph 4—
- (a) in sub-paragraph (1) for “First-tier Tribunal” substitute “tribunal”; and
 - (b) in sub-paragraph (2)—
 - (i) for “First-tier Tribunal” substitute “tribunal”;
 - (ii) in paragraph (b) for “Tribunal” substitute “tribunal”.
- (5) In paragraph 13—
- (a) in the heading for “First-tier Tribunal” substitute “tribunal”;
 - (b) for “First-tier Tribunal”, in each place, substitute “tribunal”; and
 - (c) in sub-paragraph (2)(b) for “Tribunal” substitute “tribunal”.
- (6) In paragraph 23—
- (a) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”; and
 - (b) omit sub-paragraph (4)(b) and the “and” before it.
- (7) In paragraph 29—
- (a) in sub-paragraph (1) omit “to the First-tier Tribunal”; and
 - (b) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”.
- (8) In paragraph 30—
- (a) in sub-paragraph (1) omit “to the First-tier Tribunal”; and
 - (b) in sub-paragraph (3) for “First-tier Tribunal” substitute “tribunal”.
- (9) In paragraph 31 omit “to the First-tier Tribunal”.
- (10) In paragraph 32—
- (a) in sub-paragraph (3) for “the First-tier Tribunal” substitute “that is notified to the tribunal, the tribunal”;
 - (b) in sub-paragraph (4)—
 - (i) for “First-tier Tribunal” substitute “tribunal”;
 - (ii) in paragraphs (a) and (b) for “Tribunal”, substitute “tribunal”;
 - (iii) in paragraph (b) for “Tribunal’s” substitute “tribunal’s”; and
 - (c) for sub-paragraph (5) substitute—

“(5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 a decision of the tribunal on an appeal under this Part of this Schedule is final.”.
- (11) In paragraph 34(3) omit “to the First-tier Tribunal”.
- (12) In paragraph 45(1) for “(on appeal) the First-tier Tribunal” substitute “(on an appeal notified to the tribunal) the tribunal”.
- (13) In paragraph 47 omit “to the First-tier Tribunal”.
- (14) In paragraph 48(3) and (4) for “, the First-tier Tribunal” substitute “that is notified to the tribunal, the tribunal”.
- (15) In paragraph 58—
- (a) in the definition of “the Taxes Acts” at the end of sub-paragraph (c) omit “and”;
 - (b) in the definition of “taxpayer” after “(as appropriate)” insert “, and”;
 - (c) after the definition of “taxpayer” insert—

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

Commencement Information

I461 Sch. 1 para. 471 in force at 1.4.2009, see **art. 1(2)**

472. Omit paragraph 14 of Schedule 40.

Commencement Information

I462 Sch. 1 para. 472 in force at 1.4.2009, see **art. 1(2)**

473.—(1) Schedule 41 is amended as follows.

(2) For paragraph 18 substitute—

“**18.**—(1) An appeal shall be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or the Upper Tribunal).

(2) Sub-paragraph (1) does not apply in respect of a matter expressly provided for by this Act.”.

(3) In paragraph 19—

- (a) for “First-tier Tribunal”, in both places, substitute “tribunal”;
- (b) in sub-paragraph (3) for “Tribunal”, in each place, substitute “tribunal”; and
- (c) after sub-paragraph (4) insert—

“(5) In this paragraph, “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 18(1)).”.

(4) In paragraph 20(1) for “(on appeal) the First-tier Tribunal” substitute “(on an appeal notified to the tribunal) the tribunal”.

(5) In paragraph 21 for “(on appeal) the First-tier Tribunal”, in each place, substitute “(on an appeal notified to the tribunal) the tribunal”.

Commencement Information

I463 Sch. 1 para. 473 in force at 1.4.2009, see **art. 1(2)**

Commencement Information

I458 Sch. 1 para. 468 in force at 1.4.2009, see **art. 1(2)**

I459 Sch. 1 para. 469 in force at 1.4.2009, see **art. 1(2)**

I460 Sch. 1 para. 470 in force at 1.4.2009, see **art. 1(2)**

I461 Sch. 1 para. 471 in force at 1.4.2009, see **art. 1(2)**

I462 Sch. 1 para. 472 in force at 1.4.2009, see **art. 1(2)**

I463 Sch. 1 para. 473 in force at 1.4.2009, see **art. 1(2)**

Status: Point in time view as at 06/04/2010.

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1. (See end of Document for details)

Health and Social Care Act 2008

- 474.** In section 32 of the Health and Social Care Act 2008(**175**) (appeals to Tribunal)—
- (a) in subsections (1) and (3) to (6) for “Tribunal”, in each place, substitute “First-tier Tribunal”; and
 - (b) in subsection (7) omit the definition of “the Tribunal”.

Commencement Information

I464 Sch. 1 para. 474 in force at 1.4.2009, see [art. 1\(2\)](#)

Status:

Point in time view as at 06/04/2010.

Changes to legislation:

There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, SCHEDULE 1.