



Finance Act 1996

1996 CHAPTER 8

PART III

LANDFILL TAX

Review and appeal

54 [F1 Appeals]

- (1) [F2 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—]
- (a) a decision as to the registration or cancellation of registration of any person under this Part;
 - (b) a decision as to whether tax is chargeable in respect of a disposal or as to how much tax is chargeable;
 - F3 (ba)
 - F4 (bb)
 - (c) a decision as to whether a person is entitled to credit by virtue of regulations under section 51 above or as to how much credit a person is entitled to or as to the manner in which he is to benefit from credit;
 - [F5 (ca) a decision to withdraw approval of an environmental body under any provision contained in regulations by virtue of section 53(4)(d) above;]
 - (d) a decision as to an assessment falling within subsection (2) below or as to the amount of such an assessment;
 - (e) a decision to refuse a request under section 58(3) below;
 - (f) a decision to refuse an application under section 59 below;
 - (g) a decision as to whether conditions set out in a specification under the authority of provision made under section 68(4)(b) below are met in relation to a disposal;
 - (h) a decision to give a direction under any provision contained in regulations by virtue of section 68(5) below;

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- (i) a decision as to a claim for the repayment of an amount under paragraph 14 of Schedule 5 to this Act;
 - (j) a decision as to liability to a penalty under Part V of that Schedule or as to the amount of such a penalty;
 - (k) a decision under paragraph 19 of that Schedule (as mentioned in paragraph 19(5));
 - (l) a decision as to any liability to pay interest under paragraph 26 or 27 of that Schedule or as to the amount of the interest payable;
 - (m) a decision as to any liability to pay interest under paragraph 29 of that Schedule or as to the amount of the interest payable;
 - (n) a decision to require any security under paragraph 31 of that Schedule or as to its amount;
 - (o) a decision as to the amount of any penalty or interest specified in an assessment under paragraph 32 of that Schedule.
- (2) An assessment falls within this subsection if it is an assessment under section 50 above in respect of an accounting period in relation to which a return required to be made by virtue of regulations under section 49 above has been made.

- ^{F6}(3)
- ^{F6}(4)
- ^{F6}(5)
- ^{F6}(6)
- ^{F6}(7)
- ^{F6}(8)

Textual Amendments

- F1** S. 54 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 234(2)** (with Sch. 3 paras. 2-4)
- F2** Words in s. 54 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 234(3)** (with Sch. 3 paras. 2-4)
- F3** S. 54(1)(ba) omitted (1.4.2012) by virtue of [The Landfill Tax \(Material from Contaminated Land\) \(Phasing out of Exemption\) Order 2008 \(S.I. 2008/2669\)](#), arts. 1(2)(c), **4(c)**
- F4** S. 54(1)(bb) omitted (1.12.2008) by virtue of [The Landfill Tax \(Material from Contaminated Land\) \(Phasing out of Exemption\) Order 2008 \(S.I. 2008/2669\)](#), arts. 1(2)(b), **3(1)(c)** (with art. 3(2))
- F5** S. 54(1)(ca) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), s. **151(3)(4)**
- F6** S. 54(3)-(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 234(4)** (with Sch. 3 paras. 2-4)

Modifications etc. (not altering text)

- C1** Ss. 54-56 extended (19.3.1997) by [1997 c. 16](#), s. 50(1), **Sch. 5 Pt. V para. 19(3)**

Commencement Information

- I1** S. 54 in force by 1.10.1996 at the latest see s. 57

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[^{F7}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.

Textual Amendments

- F7** Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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.

Textual Amendments

- F7** Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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.

Textual Amendments

- F7** Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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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).

Textual Amendments

F7 Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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.

Textual Amendments

F7 Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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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).

Textual Amendments

- F7** Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)

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

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- (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
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- [^{F8}(4) In a case where HMRC are requested to undertake a review by virtue of section 54E—
- (a) an appeal may not be made to an appeal tribunal—
 - (i) unless HMRC have notified P, or the other person, that a review will be undertaken, and
 - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
 - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
 - (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.]
- (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.]

Textual Amendments

- F7** Ss. 54A-54G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 235** (with Sch. 3 paras. 2-4)
- F8** S. 54G(4) substituted (1.6.2014) by [The Revenue and Customs \(Amendment of Appeal Provisions for Out of Time Reviews\) Order 2014 \(S.I. 2014/1264\)](#), arts. 1(2), **5** (with art. 1(3))

55 [^{F9}Appeals: further provisions]

^{F10}(1)

^{F11}(2)

[^{F12}(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.]

[^{F13}(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),

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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.]

(4) On an appeal under this section against an assessment to a penalty under paragraph 18 of Schedule 5 to this Act, the burden of proof as to the matters specified in paragraphs (a) and (b) of sub-paragraph (1) of paragraph 18 shall lie upon the Commissioners.

Textual Amendments

- F9** S. 55 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 236(2)** (with Sch. 3 paras. 2-4)
- F10** S. 55(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 236(3)** (with Sch. 3 paras. 2-4)
- F11** S. 55(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 236(4)** (with Sch. 3 paras. 2-4)
- F12** S. 55(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 236(5)** (with Sch. 3 paras. 2-4)
- F13** S. 55(3A)(3B) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 236(6)** (with Sch. 3 paras. 2-4)

Modifications etc. (not altering text)

- C2** Ss. 54-56 extended (19.3.1997) by [1997 c. 16](#), s. 50(1), **Sch. 5 Pt. V para. 19(3)**

Commencement Information

- I2** S. 55 in force by 1.10.1993 at the latest see s. 57.

56 Appeals: other provisions.

^{F14}(1)

(2) [^{F15}Where on an appeal under section 54] —

- (a) it is found that the amount specified in the assessment is less than it ought to have been, and
- (b) the tribunal gives a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.

(3) Where on an appeal under section 55 above it is found that the whole or part of any amount paid or deposited in pursuance of section 55(3) above is not due, so much of that amount as is found not to be due shall be repaid with interest [^{F16}at the rate applicable under section 197 of this Act] .

(4) Where on an appeal under section 55 above it is found that the whole or part of any amount due to the appellant by virtue of regulations under section 51(2)(c) or (d) or (f) above has not been paid, so much of that amount as is found not to have been paid shall be paid with interest [^{F17}at the rate applicable under section 197 of this Act] .

(5) Where an appeal under section 55 above has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or

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deposited and it is found on the appeal that that amount is due [^{F18}it shall be paid with interest at the rate applicable under section 197 of this Act].

[^{F19}(5A) Interest under subsection (5) shall be paid without any deduction of income tax.]

(6) Without prejudice to paragraph 25 of Schedule 5 to this Act, nothing in section 55 above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under paragraphs 18 to 24 of that Schedule.

(7) Without prejudice to paragraph 28 of Schedule 5 to this Act, nothing in section 55 above shall be taken to confer on a tribunal any power to vary an amount assessed by way of interest except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 26 or 27 of that Schedule.

[^{F20}(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) 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.]

Textual Amendments

- F14** S. 56(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(2)** (with Sch. 3 paras. 2-4)
- F15** Words in s. 56(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(3)** (with Sch. 3 paras. 2-4)
- F16** Words in s. 56(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(4)** (with Sch. 3 paras. 2-4, 9(2)(d))
- F17** Words in s. 56(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(5)** (with Sch. 3 paras. 2-4, 9(2)(d))
- F18** Words in s. 56(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(6)** (with Sch. 3 paras. 2-4, 9(2)(d))
- F19** S. 56(5A) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(7)** (with Sch. 3 paras. 2-4)
- F20** S. 56(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(8)** (with Sch. 3 paras. 2-4)

Modifications etc. (not altering text)

- C3** Ss. 54-56 extended (19.3.1997) by [1997 c. 16, s. 50\(1\)](#), **Sch. 5 Pt. V para. 19(3)**

Commencement Information

- I3** S. 56 in force by 1.10.1996 at the latest see s. 57.

57 Review and appeal: commencement.

Sections 54 to 56 above shall come into force on—

- (a) 1st October 1996, or
- (b) such earlier day as may be appointed by order.

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