



Finance Act 1996

1996 CHAPTER 8

PART III

LANDFILL TAX

Review and appeal

54 Review of Commissioners' decisions

- (1) This section applies to the following decisions of the Commissioners—
- (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;
 - (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;
 - (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;
 - (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));

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- (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.
- (3) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.
- (4) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of 45 days beginning with the day on which written notification of the decision, or of the assessment containing the decision, was first given to the person requiring the review.
- (5) For the purposes of subsection (4) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—
- (a) requests such a notification,
 - (b) has not previously been given written notification of that decision, and
 - (c) if given such a notification, will be entitled to require a review of the decision under this section.
- (6) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—
- (a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters, and
 - (b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue not previously considered.
- (7) Where the Commissioners are required in accordance with this section to review any decision it shall be their duty to do so; and on the review they may withdraw, vary or confirm the decision.
- (8) Where—
- (a) it is the duty under this section of the Commissioners to review any decision, and
 - (b) they do not, within the period of 45 days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,
- they shall be deemed for the purposes of this Part to have confirmed the decision.

55 Appeals: general

- (1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—
 - (a) any decision by the Commissioners on a review under section 54 above (including a deemed confirmation under subsection (8) of that section);
 - (b) any decision by the Commissioners on such review of a decision referred to in section 54(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 54(4) above.
- (2) Where an appeal is made under this section by a person who is required to make returns by virtue of regulations under section 49 above, the appeal shall not be entertained unless the appellant—
 - (a) has made all the returns which he is required to make by virtue of those regulations, and
 - (b) has paid the amounts shown in those returns as payable by him.
- (3) Where an appeal is made under this section with respect to a decision falling within section 54(1)(b) or (d) above the appeal shall not be entertained unless—
 - (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them, or
 - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (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.

56 Appeals: other provisions

- (1) Subsection (2) below applies where the Commissioners make a decision falling within section 54(1)(d) above and on a review of it there is a further decision with respect to which an appeal is made under section 55 above; and the reference here to a further decision includes a reference to a deemed confirmation under section 54(8) above.
- (2) Where on the appeal—
 - (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 at such rate as the tribunal may determine.
- (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 at such rate as the tribunal may determine.

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- (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 deposited and it is found on the appeal that that amount is due 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.
- (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.
- (8) Sections 85 and 87 of the Value Added Tax Act 1994 (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—
 - (a) the references to section 83 of that Act included references to section 55 above, and
 - (b) the references to value added tax included references to landfill tax.

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.