

## SCHEDULE 1

### Consequential Amendments and Supplemental Provisions – Primary Legislation

#### **Finance Act 2003**

**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.

(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,

*Status: This is the original version (as it was originally made).*

- (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—
    - (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.”.