

## SCHEDULE 2

### Consequential Amendments and Supplemental Provisions – Secondary Legislation

#### **Export (Penalty) Regulations 2003**

##### **124.** After regulation 9 insert—

###### **“Offer of review**

**9A.**—(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 9 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 regulation does not apply to the notification of the conclusions of a review.

###### **Review by HMRC**

**9B.**—(1) HMRC must review a decision if—

- (a) they have offered a review of the decision under regulation 9A, 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 regulation 9F.

(3) HMRC shall not review a decision if P has appealed to the appeal tribunal under regulation 9F in respect of the decision.

###### **Extensions of time**

**9C.**—(1) If under regulation 9A, 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 regulation “relevant period” means—

- (a) the period of 30 days referred to in regulation 9B(1)(b), or
- (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).

###### **Review out of time**

**9D.**—(1) This regulation applies if—

- (a) HMRC have offered a review of a decision under regulation 9A, and
- (b) P does not accept the offer within the time allowed under regulation 9B(1)(b) or 9C(2).

(2) HMRC must review the decision under regulation 9B 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*Status: This is the original version (as it was originally made).*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 regulation 9F in respect of the decision.

#### **Nature of review etc**

**9E.**—(1) This regulation applies if HMRC are required to undertake a review under regulation 9B or 9D.

(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 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 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 paragraph (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within regulation 9A), or
- (b) the date on which HMRC decided to undertake the review (in a case falling within regulation 9D).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

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

#### **Bringing of appeals**

**9F.**—(1) An appeal under regulation 9 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 regulation 9C).

(2) But that is subject to paragraphs (3) to (5).

- (3) In a case where HMRC are required to undertake a review under regulation 9B—
  - (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 regulation 9D—
  - (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 regulation 9E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 9E(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.”.