



Taxes Management Act 1970

1970 CHAPTER 9

[^{F1}PART 3A

REFERRAL OF QUESTIONS DURING ENQUIRY

Textual Amendments

- F1** Pt. 3A inserted (with effect and application in accordance with s. 88(3), Sch. 29 para. 6(2) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 6\(1\)](#)

28ZA Referral of questions during enquiry

- (1) At any time when an enquiry is in progress under section 9A(1) or 12AC(1) of this Act, any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.
- (2) Notice of referral must be given—
 - (a) jointly by the taxpayer and an officer of the Board,
 - (b) in writing,
 - (c) to the Special Commissioners.
- (3) The notice of referral must specify the question or questions being referred.
- (4) More than one notice of referral may be given under this section in relation to an enquiry.
- (5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
 - (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.
- (6) In this section “the taxpayer” means—
 - (a) in relation to an enquiry under section 9A(1) of this Act, the person to whom the notice of enquiry was given;

Status: Point in time view as at 27/12/2005.

Changes to legislation: Taxes Management Act 1970, PART 3A is up to date with all changes known to be in force on or before 28 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in relation to an enquiry under section 12AC(1) of this Act, the person to whom the notice of enquiry was given or his successor.

28ZB Withdrawal of notice of referral

- (1) Either party may withdraw a notice of referral under section 28ZA of this Act by notice in accordance with this section.
- (2) Notice of withdrawal must be given—
 - (a) in writing,
 - (b) to the other party to the referral and to the Special Commissioners,
 - (c) before the first hearing by the Special Commissioners in relation to the referral.

28ZC Regulations with respect to referrals

- (1) The Lord Chancellor may make provision by regulations with respect to referrals to the Special Commissioners under—
 - (a) section 28ZA of this Act, or
 - (b) paragraph 31A of Schedule 18 to the Finance Act 1998.
- (2) Regulations under subsection (1) above may, in particular—
 - (a) make provision with respect to any of the matters dealt with in the following provisions of this Act—
 - (i) section 50 (procedure before the Special Commissioners),
 - (ii) section 56 (statement of case for opinion of the High Court),
 - (iii) section 56A (appeals from the Special Commissioners), and
 - (iv) section 58 (proceedings in Northern Ireland), or
 - (b) provide for any of those provisions to apply, with such modifications as may be specified in the regulations, in relation to a referral to the Special Commissioners under the provisions mentioned in subsection (1) above.
- (3) Regulations under subsection (1) above may—
 - (a) make different provision for different cases or different circumstances, and
 - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (4) Regulations under subsection (1) above shall—
 - (a) be made by statutory instrument, and
 - (b) be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In the following provisions any reference to an appeal includes a reference to a referral under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998—
 - (a) sections 56B, 56C and 56D of this Act (power of the Lord Chancellor to make regulations about the practice and procedure to be followed in connection with appeals to the Special Commissioners); and
 - (b) section 57 of this Act (power of the Board to make regulations about appeals relating to chargeable gains).

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- (6) Any regulations under section 56B or 57 of this Act which are in force immediately before the commencement of subsection (1) above shall apply in relation to referrals under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998, subject to any necessary modifications, as they apply in relation to appeals to the Special Commissioners.
- (7) Regulations under this section relating to proceedings in Scotland shall not be made except with the consent of the Scottish Ministers.

28ZD Effect of referral on enquiry

- (1) While proceedings on a referral under section 28ZA of this Act are in progress in relation to an enquiry—
 - (a) no closure notice shall be given in relation to the enquiry, and
 - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this section proceedings on a referral are in progress where—
 - (a) notice of referral has been given,
 - (b) the notice has not been withdrawn, and
 - (c) the questions referred have not been finally determined.
- (3) For the purposes of subsection (2)(c) above a question referred is finally determined when—
 - (a) it has been determined by the Special Commissioners, and
 - (b) there is no further possibility of that determination being varied or set aside (disregarding any power to give permission to appeal out of time).

28ZE Effect of determination

- (1) The determination of a question referred to the Special Commissioners under section 28ZA of this Act is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by an officer of the Board—
 - (a) in reaching his conclusions on the enquiry, and
 - (b) in formulating any amendments of the return required to give effect to those conclusions.
- (3) Any right of appeal under section 31(1)(a), (b) or (c) of this Act may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.]

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