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Taxes Management Act 1970

1970 CHAPTER 9

PART V

APPEALS AND OTHER PROCEEDINGS ^{F1}

Proceedings before Commissioners

48 Application to appeals and other proceedings. [1964(M) s.12(1)(5); 1965 Sch.X 1(1); 1966 Sch.VI 12(1); 1969 Sch.XX 17(43).]

- (1) In the following provisions of this Part of this Act, unless the context otherwise requires—

“appeal” means any appeal to the General Commissioners or to the Special Commissioners under the Taxes Acts ,

“the Commissioners” means the General Commissioners or the Special Commissioners as the case may be.

- (2) The following provisions of this Part of this Act shall apply in relation to—

- (a) appeals other than appeals against assessments, and
- (b) proceedings which under the Taxes Acts are to be heard and determined in the same way as an appeal,

subject [to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56(9) below ^{F1}].

Textual Amendments

F1 Finance (No.2) Act 1975 s.45(4) *in relation to notices issued after 31 July 1975.*

Modifications etc. (not altering text)

C1 See [Oil Taxation Act 1975 \(c. 22\)](#), s.1, Sch.2 para.1(1), the Oil Taxation Acts, for modification regarding petroleum revenue tax and supplementary petroleum duty.

C2 S. 48 applied by [Finance Act 1981 \(c. 35\)](#), s.134, [Sch.17 para.18](#) (special tax on banking deposits).

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49 Proceedings brought out of time. [1964(M) s.12(1)(2).]

- (1) An appeal may be brought out of time if on an application for the purpose an inspector or the Board is satisfied that there was a reasonable excuse for not bringing the appeal within the time limited, and that the application was made thereafter without unreasonable delay, and gives consent in writing; and the inspector or the Board, if not satisfied, shall refer the application for determination by the Commissioners .
- (2) If there is a right to elect to bring the appeal before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under this section is to be referred shall be the General Commissioners unless the election has been exercised before the application is so referred.

Modifications etc. (not altering text)

- C3** S. 49(1) applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
S. 49(1) applied by [Finance Act 1981 \(c. 35\)](#), s. 134, Sch. 17 para. 18 (special tax on banking deposits).

50 Procedure. [1952 s.52(1).]

- (1) The Commissioners shall cause notice of the day for hearing appeals to be given to every appellant, and shall meet together for the hearing of appeals from time to time, with or without adjournment until all appeals have been determined.
- ^{M1}(2) Notice of appeal meetings to be held by the Commissioners shall also be given to the inspector by the clerk to the Commissioners, except that in proceedings to which the Board, or an officer of the Board other than an inspector, are parties, the notice shall be given to the Board or to that officer.
- ^{M2}(3) Any officer of the Board may attend every appeal, and shall be entitled—
 - (a) to be present during all the time of the hearing and at the determination of the appeal, and
 - (b) to give reasons in support of the assessment or other decision against which the appeal is made.
- ^{M3}(4) If it is shown to the satisfaction of the Commissioners that owing to absence, sickness or other reasonable cause any person has been prevented from attending at the hearing of an appeal on the day fixed for that purpose, they may postpone the hearing of his appeal for such reasonable time as they think necessary, or may admit the appeal to be made by any agent, clerk or servant on his behalf.
- ^{M4}(5) Upon any appeal the Commissioners shall permit any barrister or solicitor to plead before them on behalf of any party to the appeal, either orally or in writing, and shall hear any accountant, that is to say, any person who has been admitted a member of an incorporated society of accountants:

Provided that on an appeal against an assessment under Schedule B the Commissioners shall permit any agent appointed by the appellant to plead before them on his behalf.
- ^{F2M5}(6) If, on an appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other lawful evidence,

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that the appellant is overcharged by any assessment, the assessment shall be reduced accordingly, but otherwise every such assessment shall stand good ^{F3}.

(7) If on any appeal it appears to the Commissioners that the person assessed ought to be charged in an amount exceeding the amount contained in the assessment, the assessment shall be increased accordingly. ^{F3}

(8) Where, on an appeal against an assessment which—

- (a) assesses an amount which is chargeable to tax, and
- (b) charges tax on the amount assessed,

it appears to the Commissioners as mentioned in subsection (6) or (7) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed; and where any appeal is so determined the tax charged by the assessment shall be taken to have been reduced or increased accordingly ^{F4}.] ^{F3}

Textual Amendments

- F2** Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 148 and Sch. 14 Part V with effect from 6 April 1988.
- F3** See Finance (No. 2) Act 1987 s. 84(6)—s. 50(6) to (8) not apply to assessments under Finance (No. 2) Act 1987 s. 84 in relation to penalties incurred under Taxes Management Act 1970 (c. 9, SIF 63:1) s. 94 after a day to be appointed.
- F4** Finance (No. 2) Act 1975 (c. 45), s. 67(2), in relation to all years except that judgments in any court given in proceedings commenced before 29 April 1975 are not to be affected.

Modifications etc. (not altering text)

- C4** S. 50(5) amended (E.W.) (1.1.1992) by S.I. 1991/2684, arts. 2, 4, Sch. 1
- C5** S. 50 applied (with modifications) by the Oil Taxation Act 1975 (c. 22), s. 1, Sch. 2 para. 1(1)
- C6** S. 50 applied (with modifications) by Finance Act 1981 (c. 35), s. 134, Sch. 17 para. 18 (special tax on banking deposits).

Marginal Citations

- M1** 1952, 1964
1952 s. 52(2); 1964(M) s. 12(6).
- M2** 1952, 1964
1952 s. 52(2); 1964(M) Sch. IV.
- M3** 1952
s. 52(3).
- M4** 1952 s. 52(4); 1969 Sch. XX 13(5).
- M5** 1952 s. 52(5); 1964(M) Sch. IV.

51 Power of Commissioners to obtain information from appellant. [1964(M) s. 12(3).]

- (1) The Commissioners may at any time before the determination of an appeal give notice to the appellant or other party to the proceedings (not being an inspector or the Board) requiring him within the time specified in the notice—
- (a) to deliver to them such particulars as they may require for the purpose of determining the appeal, and

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- (b) to make available for inspection by them, or by any officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Commissioners issuing the notice, contain or may contain information relating to the subject matter of the proceedings.
- (2) Any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under subsection (1)(a) above; and the Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts, or other documents made available for their or his inspection under subsection (1)(b) above. ^{F5}

Textual Amendments

F5 See Finance Act 1981 s. 134 and Sch. 17 para. 18—*application of this section to the special tax on banking deposits.*

52 Evidence. [1969 Sch. XX 12(1)(2)(3).]

- (1) Any party to an appeal shall be entitled to adduce any lawful evidence.
- (2) The Commissioners may summon any person (other than the appellant) to appear before them and give evidence, and a witness before the Commissioners may be examined on oath:

Provided that any agent or servant of the appellant, and any other person confidentially employed in the affairs of the appellant, may refuse to be sworn or to answer any question to which he objects.

- ^{M6}(3) A person who after being duly summoned—
- (a) neglects or refuses to appear before the Commissioners at the time and place appointed for that purpose, or
 - (b) appears, but refuses to be sworn, or
 - (c) refuses to answer any lawful question concerning the matters under consideration,

shall incur a penalty not exceeding £50:

Provided that the penalty imposed in respect of any offence under paragraph (b) or paragraph (c) of this subsection shall not apply to any such person as is within the proviso to subsection (2) above ^{F6}.

Textual Amendments

F6 See Finance Act 1981 s. 134 and Sch. 17 para. 18—*application of this section to the special tax on banking deposits.*

Marginal Citations

M6 1952 s. 59(3); 1960 s.59(4); 1969 Sch. XX 13(4).

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53 Summary award of penalties. [1960 s.59(1)(2)(3); 1964(M) s.12(3).]

- (1) Any penalty incurred by any person for a failure to comply with a notice under section 51 above, or incurred by any person under section 52 above, may be [determined ^{F7}] summarily by the Commissioners notwithstanding that no proceedings [under section 100C of this Act ^{F7}] have been commenced, and accordingly [section 98 of this Act shall have effect, in relation to a penalty so awarded, as if subsection (3) were omitted and the reference in subsection (1)(ii) to the Commissioners before whom proceedings for the penalty have been commenced were a reference to the Commissioners by whom the penalty has been awarded ^{F8F9}].
- (2) An appeal shall lie to the High Court ^{F10} or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the [determination ^{F11}] of any penalty under this section, and on any such appeal the court may either confirm or reverse the [determination ^{F11}] of the Commissioners or reduce or increase the sum [determined ^{F11}].
- (3) Any penalty [determined ^{F12}] by virtue of this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable ^{F13}.

Textual Amendments

- F7** Finance Act 1989 s. 168(3)(a). *Previously*
“awarded”
and
“for its recovery”
respectively.
- F8** Finance Act 1972 s.129, *except in relation to penalties awarded before commencement of that Act (27 July 1972).*
- F9** *Words repealed by* Finance Act 1989 s. 187 *and* Sch. 17 Part VIII *in relation to failure to comply with a notice etc. on or after 27 July 1989.*
- F10** *See* R.S.C. Ord. 91, (S.I. 1965 No. 1776 *under*
“appeal tribunals: Supreme Court, Rules of”
in Part III Vol. 5) r. 5 *as to procedure in the High Court in England and Wales.*
- F11** Finance Act 1989 s. 168 (3)(b). *Previously*
“award”, “decision”
and
“awarded”
respectively.
- F12** Finance Act 1989 s. 168 (3)(c). *Previously*
“awarded”.
- F13** *See* Finance Act 1981 s. 134 *and* Sch. 17 para. 18—*application of this section to the special tax on banking deposits.*

54 Settling of appeals by agreement. [1952 s.510; 1958 Sch.VI 5; 1965 Sch.X 1(1); 1966 Sch.VI 12(4).]

- (1) Subject to the provisions of this section, where a person gives notice of appeal and, before the appeal is determined by the Commissioners, the inspector or other proper officer of the Crown and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision under appeal should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time

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when the agreement was come to, the Commissioners had determined the appeal and had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.

- (2) Subsection (1) of this section shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other proper officer of the Crown that he desires to repudiate or resile from the agreement.
- (3) Where an agreement is not in writing—
- (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other proper officer of the Crown to the appellant or by the appellant to the inspector or other proper officer; and
 - (b) the references in the said preceding provisions to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.
- (4) Where—
- (a) a person who has given a notice of appeal notifies the inspector or other proper officer of the Crown, whether orally or in writing, that he desires not to proceed with the appeal; and
 - (b) thirty days have elapsed since the giving of the notification without the inspector or other proper officer giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated as withdrawn,
- the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the inspector or other proper officer had come to an agreement, orally or in writing, as the case may be, that the assessment or decision under appeal should be upheld without variation.
- (5) The references in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal .

Modifications etc. (not altering text)

- C7** See—[Finance Act 1981 \(c. 35\)](#), s.134, Sch.17 para.18—application of this section to the special tax on banking deposits. [Finance Act 1982\(c. 39\)](#), s.156, Sch.21 para.4(1)—application of s.54 to the tribunal under [Finance Act 1970 s.463](#) in relation to functions transferred by s.156. [Finance \(No. 2\) Act 1987 \(c. 51\)](#), **s. 84(7)**—nothing in s. 55 applies to appeals against assessments under [Finance \(No. 2\) Act 1987 s. 84](#). [Income and Corporation Taxes Act 1988 \(c. 1\)](#), **s. 705(7)**—agreement as to operation of s. 703 advance corporation tax taken into account in tax avoidance counteraction notice) requires agreement of all companies concerned.

55 [Recovery of tax not postponed.

- (1) This section applies to an appeal to the Commissioners against—
- (a) an assessment to income tax under Schedule A, Schedule C or Schedule D,
 - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section [203

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- ^{F14}] of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
- (c) an assessment to income tax made under [Schedule 16 to the principal Act ^{F14}] (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule,
 - (d) an assessment to capital gains tax,
 - (e) an assessment to corporation tax other than an assessment made under [Schedule 13 to the principal Act ^{F14}] (advance corporation tax) charging tax the time for the payment of which is given by paragraph 3(1) or 9 of that Schedule.
 - (f) ^{F15}
 - (g) a notice under subsection (1) or subsection (3) of section 753 of the principal Act where, before the appeal is determined, the appellant is assessed to tax under section 747(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice ^{F16}.] ^{F17}
- (2) [Except as otherwise provided by the following provisions of this section ^{F18}], the tax charged by the assessment shall be due and payable as if [there had been no appeal ^{F19}.]
- (3) If the appellant has grounds for believing that he is overcharged to tax by the assessment, he may, by notice in writing given to the inspector within thirty days after the date of the issue of the notice of assessment, apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal .

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

- (3A) An application under subsection (3) above may be made more than thirty days after the date of the issue of the notice of assessment if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is overcharged to tax by the assessment ^{F20}.]
- (4) If, after any determination of the amount of tax the payment of which should be so postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount .

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

- (5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.
- (6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any lawful evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax; and—

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- (a) in the case of a determination made on an application under subsection (3) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
 - (b) in the case of a determination made on an application under subsection (4) above—
 - (i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
 - (ii) any tax overpaid shall be repaid ^{F21}.]
- (6A) Where an appeal is brought against an assessment to tax under section 747(4)(a) of the principal Act as well as against a notice under section 753(1) or (3) of that Act—
- (a) an application under subsection (3) above may relate to matters arising on both appeals and, in determining the amount of tax the payment of which should be postponed, the Commissioners shall consider the matters so arising together, and
 - (b) if the Commissioners have determined the amount of tax the payment of which should be postponed solely in relation to one of the appeals, the bringing of the other appeal shall be taken to be a change of circumstances falling within subsection (4) above; and
 - (c) any reference in this section to the determination of the appeal shall be construed as a reference to the determination of the two appeals, but the determination of one before the other shall be taken to be a change of circumstances falling within subsection (4) above ^{F22}.]
- (7) If the appellant and [an inspector ^{F23}] come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.
- (8) Where an agreement is not in writing—
- (a) subsection (7) above shall not apply unless that fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and
 - (b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.
- (9) On the determination of the appeal—
- (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the assessment if there had been no appeal, be determined as if the tax were charged by an assessment—

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- (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
- (ii) against which there had been no appeal; and
- (b) any tax overpaid shall be repaid ^{F24}.]
- (10) In [subsection (3) above ^{F25}] “inspector” means the inspector or other officer of the Board by whom the notice of assessment was issued; and references in this section to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.
- (11) *Section 45(2) above shall not apply to an application under subsection (3) or (4) above; and ^{F26} the transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above ^{F27}.] ^{F28}*

Textual Amendments

- F14** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.*
- F15** *A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch. 8 para. 14 Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.*
- F16** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 8(1). Previously “(g) a notice under subsection (1) or subsection (3) of section 88 of the Finance Act 1984 where, before the appeal is determined, the appellant is assessed to tax under section 82(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice (a)” (a) Finance Act 1984 s. 89(5) from 6 April 1984.*
- F17** *See—Finance Act 1981 s. 134 and Sch. 17 paras. 14(4), 15(2), 18—application of s. 55(1) to (10) to the special tax on banking deposits. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 375—assessments under subsection 3 to be regarded as if included among those specified in s. 55(1). Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 14 para. 6(2)(a)—assessments under para. 6 to be regarded as if they were included among those specified in s. 55(1). S.I. 1986 No. 1948 (in Part III Vol. 5) regn. 33(3)—assessments under S.I. 1986 No. 1948 (personal equity plans) to be treated as assessments specified in s. 55(1). S.I. 1987 No. 352 (in Part III Vol. 5) regn. 6(6)—Taxes Management Act 1970 (c. 9, SIF 63:1) to apply to assessments under S.I. 1987 No. 352 (pension scheme surpluses: administration) as if under s. 55(1) S.I. 1987 No. 530 (in Part III Vol. 5) regn. 14(2)—application of s. 51(1) to assessments in relation to non-resident entertainers and sportsmen.*
- F18** *Finance Act 1982 (c. 39), s. 68(1) in relation to notices of assessment issued after 30 July 1982*
- F19** *Finance Act 1989 (c. 26), s. 156(2)(a) for tax charged by any assessment notice of which is issued after 30 July 1982*
- F20** *Finance Act 1982 (c. 39), s. 68(2)(3) in relation to notices of assessment issued after 30 July 1982*
- F21** *Finance Act 1989 (c. 26), s. 156(2) in relation to tax charged by any assessment notice of which is issued after 30 July 1982*
- F22** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 8(2).*
- F23** *Finance Act 1990 s. 104(2)(a), (4) where notice of appeal given on or after 26 July 1990. Previously “the inspector”.*
- F24** *Finance Act 1989 s. 156(2)(c) in relation to tax charged by any assessment notice of which is issued after 30 July 1982. Previously “On the determination of the appeal—(a) any tax payable in accordance with that determination the payment of which had been postponed, or which had not been charged by the assessment, shall be due and payable as if it were tax charged by an assessment—(i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with*

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the determination, and(ii) in respect of which no appeal was pending, or(b) any tax overpaid shall be repaid, as the case may require.”

F25 Finance Act 1990 s. 104(2)(b),(4)where notice of appeal given on or after 26 July 1990. Previously “this section”.

F26 Repealed byFinance Act 1984 s.128(6)andSch.23 Part XIIIon and after1January1985by virtue ofS.I. 1984 No. 1836 (C. 45).

F27 S. 55 substituted by Finance (No.2) Act 1975 (c. 45), s. 45(1) in relation to appeals against assessments notices of which were issued after31July1975.

F28 See Finance Act 1988 Sch. 5 para. 6for modification to s. 55in connection with underwriters; and para. 8(2) (effects of determinations).

Modifications etc. (not altering text)

C8 S. 55 modified (27.7.1993) by 1993 c. 34, s. 173, Sch. 19 Pt. I para. 7(2)(a)

C9 S. 55(3)(4) modified by Income and Corporation Taxes Act 1988 (c. 1), s. 10(5)

S. 55(3)(4) restricted by Income and Corporation Taxes Act 1988 (c. 1), s. 306(8)

C10 S. 55 modified by Income and Corporation Taxes Act 1988 (c. 1), Sch. 27 para. 19(3)

56 Statement of case for opinion of the High Court. [1952 s.64(1); 1964(M) Sch.IV.] [1952 s.64(2); 1958 Sch.VI 5; 1964(M) Sch.IV.]

- (1) Immediately after the determination of an appeal by the Commissioners, the appellant or the inspector or other officer of the Board, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the Commissioners who heard the appeal.
- (2) The appellant or the inspector or other officer of the Board, as the case may be, having declared his dissatisfaction, may, within thirty days after the determination, by notice in writing addressed to the clerk to the Commissioners, require the Commissioners to state and sign a case for the opinion of the High Court thereon. ^{F29}
- ^{M7}(3) The party requiring the case shall pay to the clerk to the Commissioners a fee of [£25 ^{F30}] for and in respect of the same, before he is entitled to have the case stated.
- ^{M8}(4) The case shall set forth the facts and the determination of the Commissioners, and the party requiring it shall transmit the case, when stated and signed, to the High Court, within thirty days after receiving the same. ^{F31}
- ^{M9}(5) At or before the time when he transmits the case to the High Court, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.
- ^{M10}(6) The High Court shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Commissioners with the opinion of the Court thereon, or may make such other order in relation to the matter as to the Court may seem fit.
- ^{M11}(7) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.
- ^{M12}(8) An appeal shall lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords:

Provided that—

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- (a) no appeal shall lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934, and
- ^{M13}(b) this subsection has effect subject to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords). ^{F31}
- (9) Where the appeal is against an assessment, then notwithstanding that a case has been required to be stated or is pending before the High Court, tax shall be paid in accordance with the determination of the Commissioners who have been required to state the case:
- Provided that, if the [amount charged by ^{F32}] the assessment is altered by the order or judgment of the High Court, then—
- (a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court may allow ^{F33}; or
- (b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector . . . ^{F34} issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court ^{F35}].
- ^{M14}(10) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer, and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.
- (11) This section has effect in Northern Ireland subject to section 58 below .

Textual Amendments

- F29** See S.I. 1987 No. 1422 (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F30** Finance Act 1984 s.127 and Sch.22 para.6 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45). Previously “£1”.
- F31** See S.I. 1987 No. 1422 (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F32** Finance Act 1989 s. 156(3) in relation to tax charged by any assessment notice of which is issued after 30 July 1982. Previously “amount of”.
- F33** See Finance (No.2) Act 1975 s.47(8) and s.48(7) repayment supplement not payable where Court may allow interest.
- F34** Words relating to development land tax added by Development Land Tax Act 1976 Sch.8 para.15. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F35** Finance (No.2) Act 1975 s.45(3) in relation to appeals against assessments of which notices were issued after 31 July 1975.

Modifications etc. (not altering text)

- C11** S. 56 applied (6.4.1990) by The Lloyd’s Underwriters (Tax) (1987—88) Regulations 1990 (S.I. 1990/627), regs. 1, 9
S. 56 applied (19.4.1991) by The Lloyd’s Underwriters (Tax) (1988–89) Regulations 1991 (S.I. 1991/851), regs. 1, 7(4)
- C12** S. 56 applied (28.3.1992) by The Lloyd’s Underwriters (Tax) (1989—90) Regulations 1992 (S.I. 1992/511), reg. 7(4)

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- C13** S. 56 applied (6.4.1993) by [The Income Tax \(Employments\) Regulations 1993 \(S.I. 1993/744\)](#), [reg. 11\(6\)](#) (revoked (6.4.2004) by [S.I. 2003/2682](#), [Sch. 2](#))
- C14** S. 56 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
S. 56 applied by [Finance Act 1981 \(c. 35\)](#), s. 134, [Sch. 17 para. 18](#) (special tax on banking deposits).

Marginal Citations

- M7** 1952
s.64(4).
- M8** 1952 s.64(4); 1958 Sch. VI 5.
- M9** 1952
s.64(5).
- M10** 1952
s.64(6)
- M11** 1952
s.64(7)
- M12** 1952
s.64(9).
- M13** 1952 s.64(10); 1964(M) s.12(5),Sch.IV
- M14** 1952
ss.64(9),522.

56A [Statement of case: Special Commissioners to Court of Appeal.

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal in England and Wales as may be prescribed by the order; and
 - (b) subject to the consent of the parties and to such other conditions as may be so prescribed;
- a case stated by the Special Commissioners under section 56 above, for the opinion of the High Court, shall be referred to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that section 56 above shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order; and
 - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament ^{F36}.]

Textual Amendments

- F36** Finance Act 1984 s.127andSch.22 para.7on and after1January1985.by virtue ofS.I. 1984 No. 1836 (C.45).(not reproduced) (For orders see Part III Vol.5).

VALID FROM 16/07/1992

[^{F37}56B Regulations about practice and procedure.

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations about the practice and procedure to be followed in connection with appeals.

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- (2) The regulations may in particular include provision—
- (a) enabling the Commissioners to join as a party to an appeal a person who would not otherwise be a party;
 - (b) for requiring any party to an appeal to provide information and make documents available for inspection by the Commissioners or by officers of the Board;
 - (c) for requiring persons to attend the hearing of an appeal to give evidence and produce documents;
 - (d) as to evidence generally in relation to appeals;
 - (e) enabling the Commissioners to review their decisions;
 - (f) for the imposition of penalties not exceeding an amount specified in the regulations;
 - (g) for the determination and recovery of penalties (imposed by virtue of paragraph (f) above or any other enactment) and for appeals against penalties.
- (3) The regulations may also include provision—
- (a) authorising or requiring the Commissioners, in circumstances prescribed in the regulations, to state a case for the opinion of a court;
 - (b) for an appeal to lie to a court on a question of law arising from a decision of the Commissioners;
 - (c) as to the practice and procedure to be followed in connection with cases so stated or such appeals.
- (4) The regulations 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.
- (5) Provision made by virtue of any of subsections (1) to (4) above may include provision amending this or any other Act or any instrument made under an Act.
- (6) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F37 Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.4](#)

Modifications etc. (not altering text)

C15 Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\), s. 225A\(2\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.8](#))

VALID FROM 16/07/1992

56C ^{F38}**Power of Special Commissioners to order costs.**

- (1) Regulations made under section 56B above may include provision for—

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- (a) the award by the Special Commissioners of the costs of, or incidental to, appeal hearings before them,
 - (b) the recovery of costs so awarded, and
 - (c) appeals against such awards.
- (2) Any provision made by virtue of subsection (1)(a) above shall provide that the Special Commissioners shall not award costs against a party to an appeal unless they consider that he has acted wholly unreasonably in connection with the hearing in question.

Textual Amendments

F38 Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para. 4.](#)

Modifications etc. (not altering text)

C16 Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\), s. 225A\(2\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para. 8.](#)

VALID FROM 16/07/1992

56D ^{F39} **Power of Special Commissioners to publish reports of decisions.**

- (1) Regulations made under section 56B above may include provision for the Special Commissioners to publish reports of such of their decisions as they consider appropriate.
- (2) Any provision made by virtue of subsection (1) above shall provide that any report published, other than a report of an appeal that was heard in public, shall be in a form that so far as possible prevents the identification of any person whose affairs are dealt with in the report.
- (3) No obligation of secrecy to which the Special Commissioners are subject (by virtue of this Act or otherwise) shall prevent their publishing reports of their decisions in accordance with any provision made by virtue of subsection (1) above.

Textual Amendments

F39 Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.4.](#)

Modifications etc. (not altering text)

C17 Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\), s. 225A\(2\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para. 8.](#)

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