

SCHEDULES

SCHEDULE 16

Section 76.

GENERAL AND SPECIAL COMMISSIONERS

- 1 The Taxes Management Act 1970 shall be amended in accordance with paragraphs 2 to 5 below.

Remuneration of General Commissioners etc.

- 2 (1) In section 2 (General Commissioners), the following subsection shall be substituted for subsection (5)—

“(5) The Lord Chancellor or, in Scotland, the Secretary of State shall pay General Commissioners by way of travelling allowance or subsistence allowance sums of such amounts and in such circumstances as he may, with the approval of the Treasury, determine.”

- (2) Section 3 (clerk to General Commissioners) shall be amended as mentioned in subparagraphs (3) and (4) below.

- (3) The following subsection shall be substituted for subsection (2)—

“(2) The Lord Chancellor or, in Scotland, the Secretary of State shall pay a clerk such remuneration in respect of his services as the Lord Chancellor or Secretary of State may, with the approval of the Treasury, determine.”

- (4) In subsection (3)—

- (a) for “The Board may, in such cases as they may in their discretion determine” there shall be substituted “The Lord Chancellor or, in Scotland, the Secretary of State may, in such cases as he may in his discretion determine”,
- (b) for “they may with the consent of the Minister for the Civil Service determine” there shall be substituted “he may, with the approval of the Treasury, determine”, and
- (c) for “the Board are satisfied” there shall be substituted “the Lord Chancellor or Secretary of State is satisfied”.

- (5) This paragraph shall come into force on 1st April 1994.

Jurisdiction

- 3 The following section shall be inserted after section 46—

“46A Regulations about jurisdiction

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations—

- (a) providing for appeals or other proceedings under the Taxes Acts to be determined in certain circumstances by the Special

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- Commissioners instead of the General Commissioners or by the General Commissioners instead of the Special Commissioners;
- (b) providing for appeals or other proceedings under the Taxes Acts that would otherwise be determined by the General Commissioners for one division to be determined in certain circumstances by the General Commissioners for another division;
 - (c) as to the number of General Commissioners or Special Commissioners required or permitted to hear, or perform other functions in relation to, appeals or other proceedings under the Taxes Acts.
- (2) 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.
- (3) Provision made by virtue of subsection (1) or (2) above may include provision amending this or any other Act or any instrument made under an Act.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

Practice and procedure

4 The following sections shall be inserted after section 56A—

“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.
- (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—

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- (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.

56C Power of Special Commissioners to order costs

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

56D 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.”

5 Section 57B (which is superseded by the sections inserted by paragraph 4 above) shall be omitted.

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Oil taxation appeals

- 6 (1) In Schedule 2 to the Oil Taxation Act 1975 (management and collection of petroleum revenue tax) the Table in paragraph 1(1) shall be amended as follows.
- (2) After the entry relating to section 36 of the Taxes Management Act 1970 there shall be inserted—

“Section 46A	In subsection (1), omit paragraphs (a) and (b) and the words “General Commissioners or” in paragraph (c).”
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- (3) After the entry relating to section 56 of the Taxes Management Act 1970 there shall be inserted—

“Section 56A	—
56B	—
56C	—
56D	—”.

- 7 The Revenue Appeals Order 1987 shall have effect (subject to its revocation or amendment) as if any reference to section 56 of the Taxes Management Act 1970 included a reference to that section as applied by paragraph 1 of Schedule 2 to the Oil Taxation Act 1975.

Inheritance tax appeals

- 8 The following section shall be inserted in the Inheritance Tax Act 1984 after section 225—

“225A Extension of regulation-making powers

- (1) Section 46A of the Taxes Management Act 1970 (regulations about jurisdiction of General and Special Commissioners) shall apply in relation to appeals or other proceedings under this Part of this Act as it applies in relation to appeals or other proceedings under the Taxes Acts, but with the omission from subsection (1) of—
- (a) paragraphs (a) and (b), and
 - (b) the words “General Commissioners or” in paragraph (c).
- (2) Sections 56B, 56C and 56D of the Taxes Management Act 1970 (regulations about practice and procedure of General and Special Commissioners) shall apply in relation to appeals or other proceedings under this Part of this Act as they apply in relation to appeals or other proceedings under the Taxes Acts.
- (3) In this section, “the Taxes Acts” has the meaning given in section 118(1) of the Taxes Management Act 1970.”