

SCHEDULES

SCHEDULE 12

Section 61.

CONSTITUTION AND PROCEDURE OF TRIBUNALS

Establishment of tribunals

- 1 (1) There shall continue to be tribunals for England and Wales, Scotland and Northern Ireland respectively known as VAT tribunals.
- (2) If section 7(1) and (2) of the Finance Act 1994 have come into force before this Schedule comes into force then for any reference in this Schedule to VAT tribunals there shall, as from the commencement of this Schedule, be substituted a reference to VAT and duties tribunals.
- (3) If sub-paragraph (2) above does not apply, then, as from a day to be appointed by order made by the Commissioners by statutory instrument for the purposes of this paragraph, for any reference in this Schedule to VAT tribunals there shall be substituted a reference to VAT and duties tribunals.
- (4) Any reference in any enactment or any subordinate legislation to a value added tax tribunal (or to a VAT tribunal) shall be construed in accordance with paragraphs (1) to (3) above, and cognate expressions shall be construed similarly.

The President

- 2 (1) There shall continue to be a President of VAT tribunals, who shall perform the functions conferred on him by the following provisions of this Schedule in relation to VAT tribunals in any part of the United Kingdom.
- (2) The President shall be appointed by the Lord Chancellor after consultation with the Lord Advocate and shall be—
- (a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
 - (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (3) Subject to paragraph 3 below, the appointment of the President shall be for such term and subject to such conditions as may be determined by the Lord Chancellor, after consultation with the Lord Advocate, and a person who ceases to hold the office of President shall be eligible for re-appointment thereto.
- 3 (1) The President may resign his office at any time and shall vacate his office—
- (a) at the end of the completed year of service in which he attains the age of 72, or
 - (b) if sub-paragraph (2) below applies, on the date on which he attains the age of 75.

Status: This is the original version (as it was originally enacted).

This sub-paragraph shall cease to have effect on the day appointed under section 31 of the Judicial Pensions and Retirement Act 1993 (“the 1993 Act”) for the coming into force of section 26 of that Act.

- (2) If the Lord Chancellor, after consultation with the Lord Advocate, considers it desirable in the public interest to do so he may authorise the President to continue in office after the end of the completed year of service mentioned in sub-paragraph (1) (a) above.
- (3) The President—
- (a) may resign his office at any time; and
 - (b) shall vacate his office on the day on which he attains the age of 70;
- but sub-paragraph (b) above is subject to section 26(4) to (6) of the 1993 Act (power to authorise continuance in office up to the age of 75).

This sub-paragraph shall come into force on the day appointed under section 31 of the 1993 Act for the coming into force of section 26 of that Act.

- (4) The Lord Chancellor may, if he thinks fit and after consultation with the Lord Advocate, remove the President from office on the ground of incapacity or misbehaviour.
- (5) The functions of the President may, if he is for any reason unable to act or his office is vacant, be discharged by a person nominated for the purpose by the Lord Chancellor after consultation with the Lord Advocate.
- (6) There shall be paid to the President such salary or fees and there may be paid to or in respect of a former President such pension, allowance or gratuity as the Lord Chancellor may with the approval of the Treasury determine.
- (7) Sub-paragraph (6) above, so far as relating to pensions allowances and gratuities, shall not have effect in relation to a person to whom Part I of the 1993 Act applies, except to the extent provided under or by that Act.
- (8) If a person ceases to be President of VAT tribunals and it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, there may be paid to that person a sum of such amount as the Lord Chancellor may with the approval of the Treasury determine.

Sittings of tribunals

- 4 Such number of VAT tribunals shall be established as the Lord Chancellor or, in relation to Scotland, the Secretary of State may from time to time determine, and they shall sit at such times and at such places as the Lord Chancellor or, as the case may be, the Secretary of State may from time to time determine.

Composition of tribunals

- 5 (1) A VAT tribunal shall consist of a chairman sitting either with two other members or with one other member or alone.
- (2) If the tribunal does not consist of the chairman sitting alone, its decisions may be taken by a majority of votes and the chairman, if sitting with one other member, shall have a casting vote.

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

Membership of tribunals

- 6 For each sitting of a VAT tribunal the chairman shall be either the President or if so authorised by the President, a member of the appropriate panel of chairmen constituted in accordance with paragraph 7 below; and any other member of the tribunal shall be a person selected from the appropriate panel of other members so constituted, the selection being made either by the President or by a member of the panel of chairmen, authorised by the President to make it.
- 7 (1) There shall be a panel of chairmen and a panel of other members of VAT tribunals for England and Wales, Scotland and Northern Ireland respectively.
- (2) One member of each panel of chairmen shall be known as Vice-President of VAT tribunals.
- (3) Appointments to a panel of chairmen shall be made by the appropriate authority, that is to say—
- (a) for England and Wales, the Lord Chancellor;
 - (b) for Scotland, the Lord President of the Court of Session; and
 - (c) for Northern Ireland, the Lord Chief Justice of Northern Ireland;
- and appointments to a panel of other members shall be made by the Treasury.
- (4) No person may be appointed to a panel of chairmen of tribunals for England and Wales or Northern Ireland unless he is—
- (a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or
 - (b) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,
- and no person may be appointed to a panel of chairmen of tribunals for Scotland unless he is an advocate or solicitor of not less than 7 years' standing.
- (5) Subject to the following provisions of this paragraph, the appointment of a chairman of VAT tribunals shall be for such term and subject to such conditions as may be determined by the appropriate authority, and a person who ceases to hold the office of chairman shall be eligible for re-appointment thereto.
- (6) A chairman of VAT tribunals—
- (a) may resign his office at any time; and
 - (b) shall vacate his office on the day on which he attains the age of 70 years;
- but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).
- (7) The appropriate authority may, if he thinks fit, remove a chairman of VAT tribunals from office on the ground of incapacity or misbehaviour.
- (8) There shall be paid to a chairman of VAT tribunals such salary or fees, and to other members such fees, as the Lord Chancellor may with the approval of the Treasury determine; and there may be paid to or in respect of a former chairman of VAT tribunals such pension, allowance or gratuity as the Lord Chancellor may with the approval of the Treasury determine.
- (9) Sub-paragraph (8) above, so far as relating to pensions allowances and gratuities, shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided under or by that Act.

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

- (10) If a person ceases to be a chairman of VAT tribunals and it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, there may be paid to that person a sum of such amount as the Lord Chancellor may with the approval of the Treasury determine.

Exemption from jury service

- 8 No member of a VAT tribunal shall be compelled to serve on any jury in Scotland or Northern Ireland.

Rules of procedure

- 9 The Lord Chancellor after consultation with the Lord Advocate may make rules with respect to the procedure to be followed on appeals to and in other proceedings before VAT tribunals and such rules may include provisions—
- (a) for limiting the time within which appeals may be brought;
 - (b) for enabling hearings to be held in private in such circumstances as may be determined by or under the rules;
 - (c) for parties to proceedings to be represented by such persons as may be determined by or under the rules;
 - (d) for requiring persons to attend to give evidence;
 - (e) for discovery and for requiring persons to produce documents;
 - (f) for the payment of expenses and allowances to persons attending as witnesses or producing documents;
 - (g) for the award and recovery of costs;
 - (h) for authorising the administration of oaths to witnesses; and
 - (j) with respect to the joinder of appeals brought by different persons where a notice is served under section 61 and the appeals relate to, or to different portions of, the basic penalty referred to in the notice.
- 10 (1) A person who fails to comply with a direction or summons issued by a VAT tribunal under rules made under paragraph 9 above shall be liable to a penalty not exceeding £1,000.
- (2) A penalty for which a person is liable by virtue of sub-paragraph (1) above may be awarded summarily by a tribunal notwithstanding that no proceedings for its recovery have been commenced.
- (3) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of a penalty under this paragraph, and on such an appeal the court may either confirm or reverse the decision of the tribunal or reduce or increase the sum awarded.
- (4) A penalty awarded by virtue of this paragraph shall be recoverable as if it were VAT due from the person liable for the penalty.