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STATUTORY INSTRUMENTS

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**1994 No. 1812**

**The General Commissioners (Jurisdiction  
and Procedure) Regulations 1994**

**PART II**

**PREPARATION FOR A HEARING**

**Listing and notice of hearing**

**3.—**(1) Except in relation to proceedings under section 100C of the Management Act, any party to proceedings which are to be heard by the General Commissioners may serve notice on the Clerk that he wishes a date for the hearing to be fixed.

(2) On receipt of a notice under paragraph (1) above the Clerk shall send notice to each party of the place, date and time of the hearing.

(3) Unless the parties otherwise agree or a Tribunal otherwise directs, the date of the hearing specified in a notice under paragraph (2) above shall be not earlier than twenty eight days after the date on which the notice is sent to the parties.

**Summoning of witnesses**

**4.—**(1) Where a party to any proceedings requires the attendance of a person at the hearing of those proceedings to give evidence or to produce any document in his possession, custody or power relevant to the subject matter of the proceedings, a General Commissioner may, on the application of that party, issue a summons (in this regulation referred to as a “witness summons”) requiring the attendance of that person at the hearing, or the production of the document, wherever that person may be in the United Kingdom.

(2) A witness summons issued under paragraph (1) above shall state the name and address of, or otherwise describe, the person to be served and shall be signed by the General Commissioner issuing it, and it shall be the responsibility of the party on whose application the summons was issued to serve it on that person.

(3) Service of a witness summons under this regulation shall be effected—

- (a) in the case of an individual, by leaving a copy of the summons with him;
- (b) in the case of a body corporate registered in the United Kingdom, by leaving a copy of the summons with the secretary or clerk of the body corporate;
- (c) in the case of a foreign body corporate with a place of business in the United Kingdom, by leaving a copy of the summons with a person authorised to accept service of process on the body corporate.

(4) A person who in obedience to a witness summons attends the hearing of any proceedings and gives evidence—

- (a) is a witness of the party on whose application the summons was issued, and

- (b) may not be cross-examined by that party without the leave of the Tribunal hearing the proceedings.
- (5) Leave shall not be given by a Tribunal under paragraph (4)(b) above unless the Tribunal decides that the witness may be treated as a hostile witness.
- (6) No person shall be required to attend in obedience to a witness summons unless it has been served on him at least seven days before the hearing or, if it has been served on him within that period, he has informed the Clerk that he accepts such service.
- (7) No person shall be required to attend and give evidence or to produce any document in obedience to a witness summons unless the party serving the summons either—
- (a) pays or tenders to that person, at the time when the summons is served on him, a sum sufficient to cover his reasonable expenses of travelling to and from, and his attendance at, the hearing, or
  - (b) has agreed with that person prior to service of the summons, to pay such a sum to him at a different time.
- (8) No person shall be compelled in obedience to a witness summons to give any evidence or produce any document that he could not be compelled to give or produce in an action in a court of law in that part of the United Kingdom by reference to the law of which the proceedings are to be determined.
- (9) No person who has been appointed as an auditor for the purposes of any enactment or who is a tax adviser within the meaning of section 20B(10) of the Management Act<sup>(1)</sup> shall be compelled in obedience to a witness summons to produce any document if, having regard to section 20B(9) to (13) of that Act, he would not be obliged to deliver or make available that document in response to a notice under section 20(3) or (8A)<sup>(1)</sup> of that Act.
- (10) Where, in the case of any document, a person could under section 20B(14)<sup>(1)</sup> of that Act comply with such a notice by delivering a copy of parts of the document and making those parts available for inspection, he shall not be compelled in obedience to a witness summons to do more at the hearing than—
- (a) produce a photographic or other facsimile copy of those parts of the document, and
  - (b) make those parts of the document available for inspection by the Tribunal.
- (11) On the application, by notice served on the Clerk, of a person on whom a witness summons has been served, a General Commissioner may set aside the summons in whole or in part; and the party on whose application the summons was issued shall be entitled to be heard on such an application.
- (12) Subject to paragraphs (6) to (11) above, if a person on whom a witness summons is served—
- (a) fails to attend in obedience to the summons, or
  - (b) attends, but refuses to be sworn or to affirm, or
  - (c) refuses to answer any lawful question, or

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(1) Sections 20 to 20D were substituted for section 20 by Schedule 6 to the Finance Act 1976 (c. 40), and subsections (9) to (14) of section 20B were substituted for subsection (9) of that section by section 144(7) of the Finance Act 1989. Subsection (3) of the substituted section 20 was amended by section 142(4) of the Finance Act 1989 and subsection (8A) was inserted by section 126(3) of the Finance Act 1988.

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(d) refuses to produce any document which he has been required by the summons to produce, the Tribunal hearing the proceedings may summarily determine a penalty against him not exceeding £1,000.

(13) Any penalty determined by a Tribunal under paragraph (12) above shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

(14) This regulation shall apply to proceedings in Scotland—

- (a) with the omission of paragraphs (4) and (5) above;
- (b) with the substitution for references to issuing a summons and to a witness summons of references to issuing a citation and to a witness citation.

### **Agreement of documents**

5. If a party agrees a document for the purposes of any proceedings he shall be deemed, subject to the terms of the agreement, to admit for the purposes of those proceedings—

- (a) that the document was written and signed or executed by the person by whom, and on the date on which, it purports to have been, and
- (b) if it purports to be a copy of another document, that it is a true copy of that document,

but, subject to any enactment or rule of law, in the absence of an express admission or agreement, he shall not be deemed to admit the truth of the contents of that document.

### **Proceedings to be heard together or in succession**

6.—(1) Where two or more proceedings have been brought before, but have not yet been heard by, the General Commissioners for one or more divisions and it appears to two or more of the General Commissioners for one of those divisions—

- (a) that some common issue arises in both or all of them, or
- (b) that both or all of them are relevant to some common issue,

those Commissioners may, of their own motion or on an application by a party to any of those proceedings, direct that those proceedings be heard at the same time or consecutively and by the same Tribunal within their division.

(2) A direction shall not be given under paragraph (1) above except on notice sent to all the parties to the proceedings in question who shall be entitled to be heard before any direction is given.

(3) On the giving of a direction under paragraph (1) above, the Clerk to the General Commissioners by whom the direction is given shall send notice of the date and terms of the direction to all the parties to the proceedings and, except where all the proceedings have been brought before the General Commissioners for the same division, to the Clerk to the other division or, if more than one, each other division of General Commissioners concerned.

### **Joining of additional parties**

7.—(1) If it appears to a Tribunal, whether on the application of a party or otherwise, that it is desirable that any person other than the Revenue be made a party to any proceedings, the Tribunal may order such person to be joined as a party in the proceedings and may give such directions for giving effect to, or in connection with, the order as it thinks fit.

(2) Where pursuant to an order under paragraph (1) above a person is joined as a party in any proceedings by reason of a question arising in those proceedings which may affect his liability to tax or in which he otherwise has an interest, he shall not be entitled, unless all the other parties consent, to be present at the hearing of the proceedings except during such part of the hearing as relates to

that question, and a Tribunal shall, if necessary, hear any such question separately from the rest of the proceedings.

(3) On the application of a person who has been joined as a party in the circumstances specified in paragraph (2) above, a Tribunal may, if it is satisfied that it would be to the convenience of the parties to do so, transfer the proceedings to the General Commissioners for the division in which the applicant ordinarily resided at the date of the application, or to the Special Commissioners.

### **Postponements and Adjournments**

**8.—**(1) A Tribunal may postpone the hearing of any proceedings, and the Clerk shall send notice to the parties of the place, date and time of the postponed hearing.

(2) A Tribunal may from time to time adjourn the hearing of any proceedings and, subject to paragraph (3) below, the Clerk shall send notice to the parties of the place, date and time of the adjourned hearing.

(3) If the place, date and time of the adjourned hearing are announced before the adjournment in the presence of the parties, no notice need be sent by the Clerk under paragraph (2) above.

(4) When any hearing is adjourned in order that further information or evidence may be obtained, the Tribunal hearing the proceedings may give directions regarding the disclosure of such information or evidence to the parties prior to the resumption of the hearing.

### **Expert evidence**

**9.—**(1) Unless a Tribunal otherwise directs, no expert evidence may be adduced by a party at the hearing of any proceedings unless—

(a) he has agreed with the other party or parties that the substance of the evidence shall be disclosed in the form of a written report or opinion in advance of the hearing and not later than such date as is specified in the agreement, and the substance of the evidence has been so disclosed, or

(b) where no such agreement has been reached or where the substance of the evidence has not been so disclosed, an application is made to a Tribunal under paragraph (2) below by the party seeking to adduce the evidence to determine whether a direction should be given under paragraph (3) below, and the party seeking to adduce the evidence complies with a direction given under that paragraph.

(2) An application under this paragraph—

(a) shall be made not later than twenty one days after the date on which notice is sent by the Clerk under regulation 3(2) or, if the Tribunal so permits, at any later time prior to or in the course of the hearing, and

(b) shall state whether the party is willing to disclose the substance of the evidence prior to its being given at the hearing and, if not, the reasons for his objection.

(3) On an application under paragraph (2) above, unless it considers that there are special reasons for not doing so, the tribunal shall direct that the substance of the evidence shall be disclosed in the form of a written report or opinion to such other parties and within such period as it may specify.

(4) This regulation shall not apply to proceedings in Scotland.