
STATUTORY INSTRUMENTS

2003 No. 2837

The Stamp Duty Land Tax (Administration) Regulations 2003

PART 6

Interpretation of Part 5

33. In this Part—

“the appropriate judicial authority” has the meaning given by paragraph 32(3) of Schedule 13 to the 2003 Act;

“the court” has the meaning given by paragraph 40(2) of Schedule 13 to the 2003 Act;

“items subject to legal privilege” has the meaning given by paragraph 35(2) of Schedule 13 to the 2003 Act;

“notice of application” means the notice of intention to apply for an order to which a person is entitled under paragraph 33(1) of Schedule 13 to the 2003 Act;

“order” means an order under paragraph 32 of Schedule 13 to the 2003 Act;

“working day” means any day other than a Saturday, Sunday or public holiday.

Approval of decision to apply for an order

34. Before the hearing of an application for an order, an officer of the Board who is a member of the Senior Civil Service in—

- (a) the Cross-Cutting Policy branch of the Inland Revenue, or
- (b) the Special Compliance Office of the Inland Revenue,

must approve in writing the decision to apply for that order.

Notice of application

35.—(1) Notice of application must be given in writing and must contain the following details—

- (a) the date, time and place of the hearing of the application;
- (b) the specifications or descriptions of documents which are the subject of the application;
- (c) a description of the suspected offence to which the application relates; and
- (d) the name of the person suspected of committing, having committed or being about to commit the suspected offence.

(2) Notice of application must be given to the person entitled to it not less than five working days before the hearing of the application.

Notice of an order, or notice of an application, treated as having been given

36.—(1) Where notice of an order, or notice of application, is delivered to a person, or left at his proper address, notice shall be treated as having been given to that person on the day on which it is delivered or left or, where that day is not a working day, on the next working day.

(2) Where notice of application, or notice of an order, is sent to a person's proper address by facsimile transmission or other similar means which produce a document containing a text of the communication, notice shall be treated as given when the text is received in a legible form.

(3) For the purposes of this regulation, a person's proper address is—

- (a) the usual or last known place of residence, or the place of business or employment, of that person; or
- (b) in the case of a company, the address of the company's registered office; or
- (c) in the case of a liquidator of a company, the liquidator's address for the purposes of the liquidation.

Complying with an order

37.—(1) A person complies with an order by producing the documents specified or described in the order to the officer of the Board specified in the order within—

- (a) the period mentioned in paragraph 32(2) of Schedule 13 to the 2003 Act; or
- (b) such further period, if any, as is agreed with that officer.

(2) For the purposes of paragraph (1), documents are produced to an officer of the Board if they are either—

- (a) delivered to the officer; or
- (b) left for the officer at an address specified in the relevant order.

(3) Where documents are sent to an officer of the Board at the address specified in the relevant order by post, they shall be treated, unless the contrary is proved, as having been produced to the officer—

- (a) if first class post is used, on the second working day after posting;
- (b) if second class post is used, on the fourth working day after posting.

Resolution of disputes as to legal privilege

38.—(1) This regulation applies where there is a dispute between the Board and a person against whom an order has been made as to whether a document, or part of a document, is an item subject to legal privilege.

(2) The person against whom an order has been made may apply to the appropriate judicial authority to resolve the dispute.

(3) All the documents to which an application under paragraph (2) relates must be lodged in the court at the same time as the application is made and shall be held by the court until the appropriate judicial authority resolves the dispute.

(4) The court shall give the Board notice of an application made under paragraph (2) not less than five working days before the hearing of the application, and the Board shall be entitled to appear and be heard at that hearing in addition to the person making the application.

(5) On the hearing of an application made under paragraph (2), the appropriate judicial authority shall—

- (a) resolve the dispute by confirming whether the document, or part of the document, is or is not an item subject to legal privilege; and

- (b) order the costs of the application to be met by the Board except where it holds that no document, or no part of any document, to which the application relates is an item subject to legal privilege.
- (6) Where a person makes an application under paragraph (2) within the period mentioned in regulation 37(1), he shall be treated as having complied with the order in relation to the documents to which the application relates until the appropriate judicial authority resolves the dispute.
- (7) A dispute may be resolved at any time by the Board and the person against whom an order has been made reaching an agreement, whether in writing or otherwise, and, for all purposes, the consequences of such an agreement shall be the same as those which would have ensued if, at the time when the agreement was reached, the appropriate judicial authority had resolved the dispute.