



Taxes Management Act 1970

1970 CHAPTER 9

PART V

APPEALS AND OTHER PROCEEDINGS ^{F1}

Textual Amendments

- F1** See—[Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 248(3)—*Application of Part V to appeals concerning election under s. 247 (dividends paid by one member of a group to another).* [Finance Act 1990 s. 47\(8\)](#)—*appeals against matters arising from part disposals of unit trusts etc. held by a transferor insurance company to be heard by Special Commissioners.* [Social Security Act 1975 Sch. 2 para. 9 \(in Part II Vol. 5\)](#)—*collection of Class 4 contributions with income tax.* [Income Tax \(Sub-Contractors in the Construction Industry\) Regns. 1975 \(S.I. 1975 No. 1960\)](#) regn. 12(3) (*in Part III Vol.5*)—*Part V applied, with modifications, to applications under regn. 12(2)* [Income Tax \(Interest Relief\) Regulations 1982 \(S.I. 1982 No. 1236\)](#) (*in Part III Vol.5*) regn. 14(5)—*application of Part V to appeals under regn. 14(3).* [Personal Equity Plan Regns. 1986 \(S.I. 1986 No. 1948\)](#) (*in Part III Vol. 5*) regns. 18(3) and 26(5)—*Part V to apply to appeals against withdrawal of Board's approval of plan managers, and against Board's decisions on annual claims for relief in relation to personal equity plans.* [Occupational Pension Schemes \(Additional Voluntary Contributions\) Regns. 1987 \(S.I. 1987 No. 1749\)](#) (*in Part III Vol. 5*) regn. 9(5)—*Part V to apply to appeals under S.I. 1987 No. 1749 regn. 9(3).* [Personal Pension Schemes \(Provisional Approval\) Regns. 1987 \(S.I. 1987 No. 1765\)](#) (*in Part III Vol. 5*) regn. 6(4)—*Part V to apply to appeals under S.I. 1987 No. 1765.* [Personal Pension Schemes \(Relief at Source\) Regns. 1988 \(S.I. 1988 No. 1013\)](#) (*in Part III Vol. 5*) regn. 11(5)—*Part V to apply to appeals under regn. 11(3).* [Private Medical Insurance \(Tax Relief\) Regulations 1989 \(S.I. 1989 No. 2387\)](#) (*in Part III Vol. 5*) regns. 14 and 17 *Part V to apply to appeals.*

Modifications etc. (not altering text)

- C1** Part V (ss. 44 - 59) applied (30.1.1992) by [S.I. 1992/10, reg. 10\(3\)](#) and by [S.I. 1992/12, reg. 10\(3\)](#)
- C2** Part V (ss. 44 - 59) applied (with modifications) (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 15\(3\), 173\(4\), Sch. 2 para.8](#) (with s. 108(5))
- C3** Part V (ss. 44 - 59) applied (with modifications) (6.4.1993) by [S.I. 1993/743, reg. 14\(2\)\(4\)](#)
- C4** Part V (ss. 44 - 59) applied (1.10.1993) by [S.I. 1993/2004, reg.11\(10\)](#)

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Jurisdiction

44 General Commissioners. [1964(M) s.11; 1965 Sch.X 1(1); 1966 Sch.VI 12 (1)(2).]

- (1) Proceedings before the General Commissioners under the Taxes Acts shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.
- (1A) Subject to subsections (1B) and (2) below, the Board may direct that, notwithstanding the said rules, proceedings before the General Commissioners under the Taxes Acts of any description specified in the direction shall be brought before the General Commissioners for the division so specified in relation to proceedings of that description.
- (1B) A direction under subsection (1A) above shall have effect subject to the provisions referred to in the last paragraph of Schedule 3 to this Act and shall not apply to any proceedings if—
- (a) the inspector has not served on the other party a notice stating the effect of the direction in relation to those proceedings;
 - (b) that party has served on the inspector, within thirty days of the service of the inspector's notice, a notice objecting to the direction so applying; or
 - (c) in the case of an appeal, that party has elected under rule 3 or 5 of the said rules for the place where he ordinarily resides ^{F2}.]
- (2) Where—
- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
 - (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,
- the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above ^{F3}.]
- (3) In any case in which proceedings under the Taxes Acts may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties, arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without its being exercised.
- (3A) Where in any case (including one in which proceedings may be brought as mentioned in subsection (3) above)—
- (a) an appeal has been brought before the General Commissioners: and
 - (b) those Commissioners consider that, because of the complexity of the appeal or the length of time likely to be required for hearing it, the appeal should be brought before the Special Commissioners;

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the General Commissioners may, with the agreement of the Special Commissioners, and having considered any representations made to them by the parties, arrange for the transfer of the proceedings to the Special Commissioners ^{F4}.]

(4) No determination of any General Commissioners under the Taxes Acts shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.

^{M1}(5) Anything to be done by the General Commissioners may, save as otherwise expressly provided by the Taxes Acts, be done by any two or more General Commissioners ^{F5}.

Textual Amendments

F2 Finance Act 1988 (c. 39, SIF 63:1,2) s. 133(1), (3) in relation to proceedings instituted on or after 1st January 1989.

F3 Finance Act 1988 (c. 39, SIF 63:1,2) s. 133(2), (3) in relation to proceedings instituted on or after 29th July 1988. Previously

“(2) The parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners may if they think fit agree that, notwithstanding the said rules, the proceedings shall be brought before the General Commissioners for the division specified in the agreement, but an inspector or the Board shall not enter into any such agreement unless satisfied that the Commissioners concerned would be likely to see no objection to the agreement(a)”.

(a)

See Income Tax (Employment) Regns. 1973 (S.I. 1973 No. 334) regn. 10(3) (in Part III Vol.5)
—application of s.44(2) to an appeal against coding.

F4 Finance Act 1984 s.127 and Sch.22 para.5 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C. 45). (not reproduced).

F5 See—Finance Act 1988 (c. 39, SIF 63:1,2) s. 134(7)—General Commissioners for Northern Ireland. Income Tax (Employment) Regns. 1973 (S.I. 1973 No. 334) regn. 48(3) (in Part III Vol.5)
—appeal against assessment under Sch.E.

Modifications etc. (not altering text)

C5 S. 44(2) applied (6.4.1993) by S.I. 1993/744, reg. 11(4)

Marginal Citations

M1 1952
S.12(1)

45 Quorum of Special Commissioners. [1967 s.43.]

(1) Anything to be done under any Act (including, except where otherwise expressly provided, any Act passed after this Act) by, to or before the Special Commissioners [shall, except in any case where the Presiding Special Commissioner directs otherwise ^{F6}] be done by, to or before a single Special Commissioner, or any two or more Special Commissioners ^{F7}; and this section applies not only for the purposes of the Taxes Acts but also for the purposes of any other affairs under the care and management of the Board.

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- (2) *Subject to the following provisions of this section, proceedings shall not by virtue of this section be brought before a single Special Commissioner unless—*
- (a) *the party, or the parties, to the proceedings, other than the Board or any officer of the Board, have given their consent, and*
 - (b) *a Special Commissioner so directs on being satisfied that the direction will avoid undue delay in the hearing of those or any other proceedings*^{F7}.
- (3) *Proceedings brought [, in accordance with a direction of the Presiding Special Commissioner*^{F8}*] before two or more Special Commissioners may be continued and determined by any one or more of them if the parties to the proceedings have given their consent, and if the continuing Special Commissioner or Commissioners, after such consultation as is practicable with any Special Commissioner retiring from the proceedings, is or are satisfied that to do so will avoid undue delay in the hearing of those or any other proceedings.*
- (4) *If the notice to the appellant of the setting down for hearing of an appeal to the Special Commissioners states that it is intended that the appeal should be heard by a single Special Commissioner and draws attention to the provisions of this section, the appeal may be so heard without compliance with the requirements of subsection(2)above, but if, in the course of the hearing of the appeal or at any earlier time, the Special Commissioner to whom the appeal is assigned is satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, the case shall thereafter be treated as one which cannot be brought before a single Special Commissioner unless the requirements of subsection(2) above are fulfilled.*
- (5) *Nothing in subsection(1)of this section shall authorise a single Special Commissioner to entertain proceedings under section100of this Act (penalties), and subsection(3)of this section shall not apply to proceedings under that section.*
- (6) *No determination of a Special Commissioner shall be questioned, whether by a case stated or otherwise, on the ground that this section did not authorise the Special Commissioner to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioner before or in the course of the proceedings leading to the determination*^{F9}.

Textual Amendments

- F6** Finance Act 1984 s.127andSch.22 para.2from1January1985by virtue ofS.I. 1984 No. 1836 (C.45).Previously “may”.
- F7** Repealed byFinance Act 1984 ss.127, 128(6)andSchs.22 para.2and23 Part XIIIon and after1.January1985by virtue ofS.I. 1984 No. 1836 (C.45).
- F8** Finance Act 1984 s.127andSch.22 para.2from1January1985by virtue ofS.I. 1984 No. 1836 (C.45).
- F9** Subsections (2)and(4)to(6)repealed byFinance Act 1984 ss.127, 128(6)andSchs.22 para.2and23 Part XIIIon and after1.January1985by virtue ofS.I. 1984 No. 1836 (C.45).

46 General and Special Commissioners. [1964(M) s.12(2); 1965 Sch.XI(1); 1966 Sch.VI 12(1).]

- (1) A right to elect to bring an appeal or other proceedings under the Taxes Acts before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or

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by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners. ^{F10}

^{M2}(2) Save as otherwise provided in the Taxes Acts, the determination of the General Commissioners or the Special Commissioners in any proceedings under the Taxes Acts shall be final and conclusive.

Textual Amendments

F10 See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 5(2)—*appeal by underwriter's agent against inspector's determination.*

Marginal Citations

M2 1964(M) s.12(4); 1965 Sch.X1(1); 1966 Sch.VI 12(1).

VALID FROM 16/07/1992

^{F11}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 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.]

Textual Amendments

F11 S. 46A inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 76, Sch. 16 para.3

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Modifications etc. (not altering text)

C6 S. 46A applied (with modifications) (16.7.1992) by [Inheritance Act 1984 \(c. 51\)](#), [s. 225A\(1\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para.8](#))

47 Special jurisdiction relating to tax on chargeable gains. [1965 s.44(6)(7)(8).]

(1) If and so far as the question in dispute on any appeal against an assessment to tax (whether capital gains tax or corporation tax) on chargeable gains, or against a decision on a claim under [the Capital Gains Tax Act 1979 ^{F12}] is a question of the value of any land, or of a lease of land then—

- (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
- (b) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland.

(2) In relation to land and leases of land in Scotland for any reference to the Lands Tribunal in subsection (1) above there shall be substituted a reference to the Lands Tribunal for Scotland:

F13

^{M3}(3) If and so far as any appeal mentioned in subsection(1) above involves the question of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities dealt in on a stock exchange in the United Kingdom, that question shall be determined [by the Special Commissioners ^{F14}], and those Commissioners shall hear and determine the question in the same way as an appeal.

(4) F15

Textual Amendments

- F12 Capital Gains Tax Act 1979 s.157(2)andSch.7 para.8for1979—80et seq.
- F13 *Proviso repealed (as spent) byFinance Act 1974 s.57(6)andSch.14 Part VII.SeeS.I. 1971 No.215—Lands Tribunal Act 1949 ss.1to4brought into force in Scotland on1March1971.*
- F14 Finance Act 1975 s.54(1).See1975 s.54(2)as to transfer of proceedings pending at the passing of that Act(13March1975).
- F15 *Repealed byCapital Gains Tax Act 1979 s.158andSch.8for1979—80et seq.*

Marginal Citations

M3 1969
Sch.XX 22(2).

47A F16

Textual Amendments

F16 *A development land tax provision added byDevelopment Land Tax Act 1976 (c. 24) Sch.8 para.13Development Land Tax Act 1976 repealed byFinance Act 1985 s.98(6)andSch.27 Part X.*

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47B [Special jurisdiction relating to Business Expansion Scheme.

If and so far as the question in dispute on any appeal against the refusal of relief under [Chapter III of Part VII of the principal Act ^{F17}] (relief for investment in corporate trades), or against an assessment withdrawing any such relief, is a question of the value of an interest in land (within the meaning of [Section 294(5) of that Act ^{F17}], it shall be determined—

- (a) if the land is in England and Wales, on a reference to the Lands Tribunal;
- (b) if the land is in Scotland, on a reference to the Lands Tribunal for Scotland; and
- (c) if the land is in Northern Ireland, on a reference to the Lands Tribunal for Northern Ireland ^{F18}.]

Textual Amendments

F17 Income and Corporation taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

F18 Finance Act 1986 s. 40(3) and Sch. 9 para. 22 in relation to shares issued at any time after 18 March 1986.

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 ^{F19}].

Textual Amendments

F19 Finance (No.2) Act 1975 s.45(4) in relation to notices issued after 31 July 1975.

Modifications etc. (not altering text)

C7 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.

C8 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)

- C9** 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.
- ^{M4}(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.
- ^{M5}(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.
- ^{M6}(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.
- ^{M7}(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.
- ^{F20M8}(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^{F21}.

(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.^{F21}

(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^{F22}.] ^{F21F23F24}

Textual Amendments

- F20** Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 148 and Sch. 14 Part V with effect from 6 April 1988.
- F21** 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.
- F22** Finance (No. 2) Act 1975 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.
- F23** See Oil Taxation Act 1975 s. 1 and Sch. 2 para. 1(1), the Oil Taxation Acts, regarding modification in relation to petroleum revenue tax and supplementary petroleum duty.
- F24** See—Finance Act 1981 s. 134 and Sch. 17 para. 18—application of ss. 50, 51 to the special tax on banking deposits. Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 10(3)—underwriters.

Marginal Citations

- M4** 1952, 1964
1952 s. 52(2); 1964(M) s. 12(6).
- M5** 1952, 1964
1952 s. 52(2); 1964(M) Sch. IV.
- M6** 1952
s. 52(3).
- M7** 1952 s. 52(4); 1969 Sch. XX 13(5).
- M8** 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
 - (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

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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. ^{F25}

Textual Amendments

F25 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.

- ^{M9}(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 ^{F26}.

Textual Amendments

F26 See Finance Act 1981 s. 134 and Sch. 17 para. 18—*application of this section to the special tax on banking deposits.*

Marginal Citations

M9 1952 s. 59(3); 1960 s.59(4); 1969 Sch. XX 13(4).

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 ^{F27}] summarily by the Commissioners notwithstanding that no proceedings [under section 100C of this Act ^{F27}] have been commenced, and

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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*^{F28F29}].

- (2) An appeal shall lie to the High Court^{F30} or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the [determination^{F31}] of any penalty under this section, and on any such appeal the court may either confirm or reverse the [determination^{F31}] of the Commissioners or reduce or increase the sum [determined^{F31}].
- (3) Any penalty [determined^{F32}] by virtue of this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable^{F33}.

Textual Amendments

- F27** Finance Act 1989 s. 168(3)(a). *Previously*
“awarded”
and
“for its recovery”
respectively.
- F28** Finance Act 1972 s.129, *except in relation to penalties awarded before commencement of that Act (27 July 1972).*
- F29** *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.*
- F30** *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.
- F31** Finance Act 1989 s. 168 (3)(b). *Previously*
“award”, “decision”
and
“awarded”
respectively.
- F32** Finance Act 1989 s. 168 (3)(c). *Previously*
“awarded”.
- F33** *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 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

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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)

C10 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^{F34}] 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^{F34}] (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,

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- (e) an assessment to corporation tax other than an assessment made under [Schedule 13 to the principal Act ^{F34}] (advance corporation tax) charging tax the time for the payment of which is given by paragraph 3(1) or 9 of that Schedule.
 - (f) ^{F35}
 - (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 ^{F36}.] ^{F37}
- (2) [Except as otherwise provided by the following provisions of this section ^{F38}], the tax charged by the assessment shall be due and payable as if [there had been no appeal ^{F39}.]
- (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 ^{F40}.]
- (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—
- (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—

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- (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 ^{F41}.]
- (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 ^{F42}.]
- (7) If the appellant and [an inspector ^{F43}] 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—
 - (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 ^{F44}.]
- (10) In [subsection (3) above ^{F45}] “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.

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- (11) Section 45(2) above shall not apply to an application under subsection (3) or (4) above; and ^{F46} 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 ^{F47}.] ^{F48}

Textual Amendments

- F34** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.
- F35** *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.*
- F36** [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.
- F37** *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.*
- F38** [Finance Act 1982 \(c. 39\)](#), **s.68(1)** in relation to notices of assessment issued after 30 July 1982
- F39** [Finance Act 1989 \(c. 26\)](#), **s. 156(2)(a)** for tax charged by any assessment notice of which is issued after 30 July 1982
- F40** [Finance Act 1982 \(c. 39\)](#), **s.68(2)(3)** in relation to notices of assessment issued after 30 July 1982
- F41** [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
- F42** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 8(2).
- F43** [Finance Act 1990 s. 104\(2\)\(a\), \(4\)](#) where notice of appeal given on or after 26 July 1990. *Previously* “the inspector”.
- F44** [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 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.”
- F45** [Finance Act 1990 s. 104\(2\)\(b\), \(4\)](#) where notice of appeal given on or after 26 July 1990. *Previously* “this section”.
- F46** *Repealed by [Finance Act 1984 s.128\(6\)](#) and Sch. 23 Part XIII on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C. 45).*
- F47** 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 after 31 July 1975.
- F48** *See [Finance Act 1988 Sch. 5 para. 6](#) for modification to s. 55 in connection with underwriters; and para. 8(2) (effects of determinations).*

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Modifications etc. (not altering text)

- C11** S. 55 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. 1 para. 7(2)(a)**
C12 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)**
C13 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. ^{F49}
- ^{M10}(3) The party requiring the case shall pay to the clerk to the Commissioners a fee of [£25 ^{F50}] for and in respect of the same, before he is entitled to have the case stated.
- ^{M11}(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. ^{F51}
- ^{M12}(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.
- ^{M13}(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.
- ^{M14}(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.
- ^{M15}(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—
 - (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
 - ^{M16}(b) this subsection has effect subject to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords). ^{F51}
- (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:

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Provided that, if the [amount charged by ^{F52}] 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 ^{F53}; 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 . . . ^{F54} issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court ^{F55}].

^{M17}(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 ^{F56}.

Textual Amendments

- F49** See S.I. 1987 No. 1422 (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F50** 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”.
- F51** See S.I. 1987 No. 1422 (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F52** 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”.
- F53** See Finance (No.2) Act 1975 s.47(8) and s.48(7) repayment supplement not payable where Court may allow interest.
- F54** 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.
- F55** Finance (No.2) Act 1975 s.45(3) in relation to appeals against assessments of which notices were issued after 31 July 1975.
- F56** See—Finance Act 1981 s.134 and Sch.17 para.18—application of this section to the special tax on banking deposits. S.I. 1987 No. 1422 (in Part III Vol. 5) for modification in the case of referral direct to the Court of Appeal. S.I. 1990 No. 627, regn. 9—application in the case of error or mistake in connection with underwriting determination for 1987-88.

Marginal Citations

- M10** 1952
s.64(4).
- M11** 1952 s.64(4); 1958 Sch. VI 5.
- M12** 1952
s.64(5).
- M13** 1952
s.64(6)
- M14** 1952
s.64(7)
- M15** 1952
s.64(9).
- M16** 1952 s.64(10); 1964(M) s.12(5), Sch.IV
- M17** 1952

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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 ^{F57}.]

Textual Amendments

F57 Finance Act 1984 s.127 and Sch.22 para.7 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45). (not reproduced) (For orders see Part III Vol.5).

VALID FROM 16/07/1992

[^{F58}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.]

Textual Amendments

F58 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)

C14 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 ^{F59}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.

Textual Amendments

F59 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](#)).

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VALID FROM 16/07/1992

56D ^{F60}**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

F60 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.](#))

Chargeable gains

57 **Regulations about appeals. [1965 Sch.X 2(1).]**

- (1) The Board may make regulations—
 - (a) as respects the conduct of appeals against assessments and decisions on claims under [the Capital Gains Tax Act 1979 ^{F61}],
 - (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
 - (c) regulating the time within which such appeals or claims may be brought or made,
 - (d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax ^{F62} of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,
 - (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.

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(2) F63

^{M18}(3) Regulations under this section may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular—

- (a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and
- (b) provisions corresponding to [section 151 of the Capital Allowances Act ^{F64}] (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and
- (c) provisions authorising the giving of conditional decisions where, under section 47 of this Act, . . . ^{F65} questions on an appeal against an assessment or a decision on a claim may go partly to one tribunal and partly to another.

(4) Regulations under this section—

- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
- (b) shall have effect notwithstanding anything in this Act ^{F66}.

Textual Amendments

- F61** Capital Gains Tax Act 1979 (c. 14 SIF 63:2) s.157(2)andSch.7 para.8for1979—80et seq.
- F62** SeeFinance Act 1974 s.47andSch.10 para.5(1)(5)—includes income tax or corporation tax in respect of development gains.
- F63** Repealed, as regards disposals after22July1970,byFinance Act 1971 ss.55and 69(7) andSch.14, Part III,subject toFinance Act 1971, s.55andSch.9.
- F64** Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164and Sch. 1 para. 1(1).Previously “section 81 of the Capital Allowances Act 1968”.
- F65** Words omitted repealed byCapital Gains Tax Act 1979 s.158andSch.8for1979—80et seq.
- F66** For regulations seePart III Vol.5.

Marginal Citations

- M18** 1962
Sch. X(2)(3).

57A F67

Textual Amendments

- F67** S. 57A added by Development Land Tax Act 1976 (c. 24), Sch. 8 para. 16. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6), Sch. 27 Pt. X.

57B [Commissioners: procedural rules.

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

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- (a) as to the procedure of the Special Commissioners and the procedure in connection with the bringing of matters before them;
 - (b) as to the time within which matters may be brought before the Special Commissioners; and
 - (c) providing for appeals which have been heard by the Special Commissioners in the absence of the appellant to be reheard, in such circumstances and subject to such conditions, as the rules may prescribe.
- (2) Rules under this section may make such consequential provision (including the amendment of any enactment or instrument made under any enactment) as the Lord Chancellor considers necessary.
- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament ^{F68}.]

Textual Amendments

F68 Finance Act 1984 s.127 and Sch.22 para.4 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45).

Northern Ireland

58 Proceedings in tax cases in Northern Ireland. [1964(M) s.14; 1965 Sch.X 1(1), 18; 1966 Sch.VI 12(1), 27(4).]

- (1) *Subject to this section, all references in the Taxes Acts to the General Commissioners (however expressed, and including references in enactments conferring a right of appeal to the General Commissioners or, at the election of the appellant, to the Special Commissioners) shall, in relation to proceedings in Northern Ireland, be taken as references to the Special Commissioners or, in the cases provided for in section 59 below, a county court in Northern Ireland.*
- ^{F69}(2) A case concerning tax which is stated by the *Special*^{F69} Commissioners under section 56 of this Act in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts ^{F70} shall have effect as if that section applied in relation to such proceedings—
- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and
 - (b) with the omission of subsections (4), (5) and (8) of that section,
- and the procedure relating to the transmission of the case to, and the hearing and determination of the case by, the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction, and an appeal shall lie from the Court of Appeal to the House of Lords in accordance with [section 42 of the Judicature (Northern Ireland) Act 1978 ^{F71}].
- (2A) Where in proceedings in Northern Ireland an application is made for a case to be stated by the Commissioners under section 56 of this Act the case must be settled and sent to the applicant as soon after the application as is reasonably practicable ^{F72}.]
- (3) [For the purposes of this section—

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- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;
- (b) proceedings under section 102, 113(5), 260(3), 281(4) 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or [section 151 of the Capital Allowances Act 1990 ^{F73}] (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland.

and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section ^{F74}

- (4) *No determination of the Special Commissioners shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that the place given by the rules in Schedule 3 to this Act was not in Northern Ireland, and accordingly that the proceedings ought to have been determined by some body of General Commissioners, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioners before or in the course of the proceedings leading to the determination* ^{F75F76}.

Textual Amendments

- F69** Repealed by Finance Act 1988 (c. 39, SIF 63:2) ss. 134(2), 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).
- F70** See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—the Oil Taxation Acts—for modification regarding petroleum revenue tax and supplementary petroleum duty.
- F71** Judicature (Northern Ireland) Act 1978 (c.23) s.122 and Sch.5 with effect on and after 18 April 1979—S.I. 1979 No.422.
- F72** Finance Act 1988 (c. 39 SIF 63:1,2) s. 135 from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced). And see Finance Act 1988 s. 134.
- F73** Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164 and Sch. 1 para. 1(1). Previously “section 81 of the Capital Allowances Act 1968”.
- F74** Finance Act 1988 (c. 39 SIF 63:1,2) s. 135 from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced). And see Finance Act 1988 s. 134. Previously “For the purposes of this section and section 59 below—(a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland, and “proceedings in Great Britain” shall be construed accordingly;(b) proceedings under [sections 102, 113(5), 263(5) and (6), 343(10) or 783(a) of the principal Act, or paragraph 22 of Schedule 7 of the Income and Corporation Taxes Act 1970, or (a)] section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland, and in relation to such proceedings the right of election to bring proceedings before a county court in Northern Ireland which is mentioned in subsection (1) of this section and section 59 below shall be exercisable jointly by all the parties concerned in the proceedings, and sections 21, 22 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section and section 59 below.(b)
(c)”
(a) Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32. Previously

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“section 11(aa), 137, 154(5), 252(9) or 494(9) of the principal Act, or paragraph 22 of Schedule 7 to that Act, or”.

(b)

See Finance Act 1981 s.134 and Sch.17 para.18—application of s.58(2)(3) to the special tax on banking deposits.

(c)

See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—regarding modification in relation to petroleum revenue tax and supplementary petroleum duty.

(aa)

See Finance Act 1982 s.157(7)—the repeal of the figure “11”

by Finance Act 1980 s.122 and Sch.20 Part VI for 1982—83 et seq. is to be deemed not to have taken effect at the beginning of 1982—83.

F75 See Income Tax (Employments) Regns. 1973 (S.I. 1973 No.334) (in Part III Vol.5) regn. 10(3)(4)—appeal against coding and regn. 48(3)—appeal against assessment under Sch.E.

F76 Subs. (4) repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).

59 Election for county court in Northern Ireland. [1964(M) s.15.]

(1) Proceedings in Northern Ireland—

- (a) which are brought under the Taxes Acts by an appellant or other party who is not the Board or an officer of the Board, and
- (b) which, if they had been proceedings in Great Britain, might have been brought before the General Commissioners,

shall, if the party bringing the proceedings by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector given within the time limited for bringing the proceedings, so elects, be brought before a county court in Northern Ireland instead of before the Special Commissioners.

^{M19}(2) In relation to proceedings brought under this section the following provisions of this Act—

section 49

section 51 with 53

sections 54 and 55

shall apply with the substitution for references to the Special Commissioners (however expressed) of references to the county court.

(3) Where proceedings are brought before a county court in Northern Ireland under this section—

- (a) the county court shall have and exercise the same powers and authority in relation to the assessment appealed against (if any), the proceedings, the determination, and all matters consequent thereon, as the Special Commissioners would have and exercise,
- (b) subject to county court rules, the practice and procedure in the proceedings shall be that followed in income tax cases in a county court in Northern Ireland before the commencement of this Act, and
- (c) the proceedings shall be heard and determined by a single judge sitting alone, and not in public, who may, for all purposes of and incidental to the hearing and determination of the proceedings, exercise all the powers, authority and jurisdiction exercisable by a county court in Northern Ireland in relation to

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the hearing and determination of an appeal to which [Part IV of the County Courts (Northern Ireland) Order 1980^{F77}] (appeals to the county courts) applies.

- (4) *Within thirty days after the determination by the county court of proceedings brought under this section any party to the proceedings may require the court to state a case on a point of law for the opinion of the Court of Appeal in Northern Ireland.*
- (5) *The procedure relating to the statement of the case shall be that for the time being in force in Northern Ireland as respects cases stated under section 2 of the County Courts Appeals Act (Northern Ireland) 1964 or any enactment of the Parliament of Northern Ireland^{F78} re-enacting the said section 2 with or without modification so, however, that notwithstanding anything in subsection (7) of the said section 2 or in any such re-enactment, an appeal, with leave as required by [section 42 of the Judicature (Northern Ireland) Act 1978^{F79}], shall lie to the House of Lords from any decision of the Court of Appeal in Northern Ireland upon a case stated to it pursuant to subsection (4) above.*
- (6) *On the determination by the county court under this section of an appeal against an assessment, tax shall be paid in accordance with the determination notwithstanding that a case has been required to be stated or is pending:*

Provided that if the amount of the assessment is altered by the order or judgment of the Court of Appeal, then—

- (a) *if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal may allow, 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 . . .^{F80} issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court^{F81}].*
- (7) *Subject to the preceding provisions of this section the determination of the county court in proceedings under this section shall be final and conclusive.*
 - (8) *No determination of a county court under this section shall be questioned, whether by a case stated or otherwise, on the ground that the proceedings were not proceedings in Northern Ireland^{F82F83}.*

Textual Amendments

- F77** S.I. 1980 No. 397 (N.I.3.). art. 68(2) and Sch. 1 Part II with effect from 19 April 1980.
- F78** See the Northern Ireland Constitution Act 1973 (c.36) s. 40 and Sch.5 para.1—includes, from appointed day, a Measure of the Northern Ireland Assembly.
- F79** Judicature (Northern Ireland) Act 1978 (c.23) s.122 and Sch.5 with effect on and after 18 April 1979—S.I. 1979 No. 422.
- F80** 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.
- F81** Finance (No.2) Act 1975 s.45(3) in relation to notices issued after 31 July 1975.
- F82** See Income Tax (Employment) Regns. 1973 (S.I. 1973 No.334) (in Part III Vol.5). regns. 10(3)—appeal against coding and regn. 48(3)—appeal against assessment under Sch.E
- F83** S. 59 Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) ss. 134(2), 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).

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Marginal Citations

M19 1969

Sch.X 2(2)(3).

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