Changes to legislation: *Finance Act 1999, Cross Heading: Stamp Act 1891 (c.39) is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 12

STAMP DUTY: INTEREST AND PENALTIES ON LATE STAMPING

Stamp Act 1891 (c.39)

1 For section 12 of the Stamp Act 1891 (assessment of duty by Commissioners) substitute—

"**12 Adjudication by Commissioners.**

(1) Subject to such regulations as the Commissioners may think fit to make, the Commissioners may be required by any person to adjudicate with reference to any executed instrument upon the questions—

(a) whether it is chargeable with duty;

(b) with what amount of duty it is chargeable;

(c) whether any penalty is payable under section 15B (penalty on late stamping);

(d) what penalty is in their opinion correct and appropriate.

(2) The Commissioners may require to be furnished with an abstract of the instrument and with such evidence as they may require as to the facts and circumstances relevant to those questions.

(3) The Commissioners shall give notice of their decision upon those questions to the person by whom the adjudication was required.

(4) If the Commissioners decide that the instrument is not chargeable with any duty, it may be stamped with a particular stamp denoting that it has been the subject of adjudication and is not chargeable with any duty.

(5) If the Commissioners decide that the instrument is chargeable with duty and assess the amount of duty chargeable, the instrument when stamped in accordance with their decision may be stamped with a particular stamp denoting that it has been the subject of adjudication and is duly stamped.

(6) Every instrument stamped in accordance with subsection (4) or (5) shall be admissible in evidence and available for all purposes notwithstanding any objection relating to duty.

12A Adjudication: supplementary provisions.

(1) An instrument which has been the subject of adjudication by the Commissioners under section 12 shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the Commissioners' decision on the adjudication.

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(2) If without reasonable excuse any such instrument is not duly stamped within 30 days after the date on which the Commissioners gave notice of their decision, or such longer period as the Commissioners may allow, the person by whom the adjudication was required is liable to a penalty not exceeding £300.

(3) A statutory declaration made for the purposes of section 12 shall not be used against the person making it in any proceedings whatever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable or as to the penalty payable on stamping that instrument.

(4) Every person by whom any such declaration is made shall, on payment of the duty chargeable upon the instrument to which it relates, and any interest or penalty payable on stamping, be relieved from any penalty to which he may be liable by reason of the omission to state truly in the instrument any fact or circumstance required by this Act to be so stated.”.

2 For section 13 of the Stamp Act 1891 (appeal against assessment of duty) substitute—

“**13 Appeal against Commissioners’ decision on adjudication.**

(1) A person who is dissatisfied with a decision of the Commissioners on an adjudication under section 12 may appeal against it.

(2) The appeal must be brought within 30 days of notice of the decision on the adjudication being given under section 12(3).

(3) An appeal may only be brought on payment of—
  (a) duty and any penalty in conformity with the Commissioners’ decision, and
  (b) any interest that in conformity with that decision would be payable on stamping the instrument on the day on which the appeal is brought.

(4) An appeal which relates only to the penalty payable on late stamping may be brought to the Special Commissioners in accordance with section 13A below.

(5) Any other appeal may be brought in accordance with section 13B below to the High Court of the part of the United Kingdom in which the case has arisen.

13A Appeal to the Special Commissioners.

(1) The following provisions apply in relation to an appeal under section 13(4).

(2) Notice of appeal must be given in writing to the Commissioners, specifying the grounds of appeal.

(3) On the hearing of the appeal the Special Commissioners may allow the appellant to put forward a ground not specified in the notice of appeal, and take it into consideration, if satisfied that the omission was not wilful or unreasonable.

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(4) The powers conferred by sections 46A(1)(c) and (2) to (4) and sections 56B to 56D of the Taxes Management Act 1970 (power of Lord Chancellor to make regulations as to jurisdiction, practice and procedure in relation to appeals) are exercisable in relation to appeals to which this section applies.

(5) On the appeal the Special Commissioners may—

(a) if it appears to them that no penalty should be paid, set the decision aside;

(b) if the amount determined appears to them to be appropriate, confirm the decision;

(c) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate;

(d) if the amount determined appears to them to be insufficient, increase it to such amount as they consider appropriate.

(6) Section 56A of the Taxes Management Act 1970 (general right of appeal on point of law) applies in relation to a decision of the Special Commissioners under this section.

(7) Without prejudice to that right of appeal, an appeal lies against the amount of a penalty determined by the Special Commissioners under this section, at the instance of the person liable to the penalty, to the High Court.

(8) On an appeal under subsection (7) the court has the same powers as are conferred on the Special Commissioners by subsection (5) above.

13B Appeal to the High Court.

(1) The following provisions apply in relation to an appeal under section 13(5).

(2) The appellant may for the purposes of the appeal require the Commissioners to state and sign a case setting out the questions upon which they were required to adjudicate and their decision upon them.

(3) The Commissioners shall thereupon state and sign a case and deliver the same to the person by whom it is required, and the case may, within 30 days thereafter, be set down by him for hearing.

(4) On the appeal the court shall determine the questions submitted and may give such directions as it thinks fit with respect to the repayment of any duty or penalty paid in conformity with the Commissioners' decision.".

3 (1) Section 14 of the Stamp Act 1891 (terms upon which instruments not duly stamped may be received in evidence) is amended as follows.

(2) In subsection (1)—

(a) for the words from "if the instrument" to "it may" substitute " the instrument may ", and

(b) for "the penalty" substitute " any interest or penalty ".

(3) In subsection (2) for "the duty and penalty" (three times) substitute " the duty and any interest or penalty ".

(4) In subsection (3)—

(a) for "any duty or penalty" substitute " any duty, interest or penalty ", and

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(b) for “the duty and penalty” substitute “ the duty, interest and penalty ”.

(5) In subsection (4) for “first executed” substitute “ executed ”.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– Sch. 17 para. 6 - 8 Sch. 19 Pt. 1-III repealed (prosp.) by 1999 c. 16 s. 123(3)s. 123(4)139Sch. 20 Pt. 5(6) Note