
STATUTORY INSTRUMENTS

1991 No. 186

VALUE ADDED TAX

The Value Added Tax Tribunals (Amendment) Rules 1991

Made - - - - *6th February 1991*
Laid before Parliament *12th February 1991*
Coming into force - - *1st March 1991*

The Lord Chancellor, in exercise of the powers conferred by paragraph 9 of Schedule 8 to the Value Added Tax Act 1983⁽¹⁾ and now vested in him by section 27 of the Finance Act 1985⁽²⁾, and after consultation with the Lord Advocate in accordance with the said section 27 and with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971⁽³⁾, hereby makes the following Rules:—

1. These Rules may be cited as the Value Added Tax Tribunals (Amendment) Rules 1991 and shall come into force on 1st March 1991.

2.—(1) The Value Added Tax Tribunals Rules 1986⁽⁴⁾ shall be amended in accordance with the following provisions of these Rules.

(2) In these Rules a rule referred to by number means the rule so numbered in the Value Added Tax Tribunals Rules 1986.

3. In rule 2—

(a) after the definition of “costs” there shall be inserted the following definition—

““date of notification”, in relation to any document, means the date on which a proper officer sends that document, or copy of that document, to any person under these rules;”

(b) after the definition of “disputed decision” there shall be inserted the following definition—

““hardship direction” means a direction that an appeal or an intended appeal should be entertained notwithstanding that the amount which the Commissioners have determined to be payable as tax has not been paid or deposited with them;”

(c) in the definition of “reasonable excuse appeal”—

(i) after the words “with respect to the” there shall be inserted the words “liability to or”;

(1) 1983 c. 55.

(2) 1985 c. 54; the Finance Act 1985 (Value Added Tax Tribunals Rules) (Appointed Day) Order 1986 S.I. 1986/934.

(3) 1971 c. 62.

(4) S.I. 1986/590, amended by S.I. 1986/2290.

- (ii) before the figures “14(6),” there shall be inserted the figures “13A(3),”; and
 - (iii) after the figures “14(6),” there shall be inserted the figures “14A(5),”; and
 - (d) in the definition of “the Registrar”, after the words “the Lord Chancellor” there shall be inserted the words “or, in Scotland, the Secretary of State”.
4. In rule 5, after the words “date of service” there shall be inserted the words “and the date of notification”.
5. In rules 7(1)(a), 7(1)(b) and 7(1)(c), for the words “the service” there shall be substituted the word “notification”.
6. In rule 8, for the words from “within 30 days” to the words “(whichever shall be the later)” there shall be substituted the following—
- “within the period of 30 days after—
 - (a) the date of notification of the notice of appeal; or
 - (b) the date of notification of the notice of withdrawal of any application under rule 6 in the appeal; or
 - (c) the date on which a direction dismissing any application under rule 6 in the appeal is released in accordance with rule 30;
- whichever shall be the latest”.
7. In rule 11(1), for the words “a direction (including a direction” to the end there shall be substituted the words—
- “(a) the issue of a witness summons; or
 - (b) a direction (including a hardship direction or a direction for the setting aside of a witness summons)
- shall be made by notice served at the appropriate tribunal centre.”
8. In rule 11(4), for the words “an appeal to be entertained without payment or deposit of the disputed tax” there shall be substituted the words “a hardship direction”.
9. In rule 11(6) after the words “date of service” there shall be inserted the words “and the date of notification”.
10. In rule 11(7), for the word “service” there shall be substituted the word “notification”.
11. In rule 19(4), for the words from “may summarily” to the end there shall be substituted the word “application”.
12. In rule 20(1)—
- (a) for the words “the parties” wherever they appear there shall be substituted the words “each of the parties”; and
 - (b) for the words “a direction that an appeal be entertained without payment or deposit of the tax in dispute” there shall be substituted the words “a hardship direction”.
13. In rule 20(2), for sub-paragraph (b) there shall be substituted the following—
- “(b) in any other appeal except a reasonable excuse appeal or a mitigation appeal, a period of 30 days after—
 - (i) the date of notification of the notice of appeal; or
 - (ii) the date of notification of the notice of withdrawal of any application under rule 6 in the appeal; or

(iii) the date on which a direction dismissing any application under rule 6 in the appeal is released in accordance with rule 30;

whichever shall be the latest;

(c) in an application for a hardship direction, a period of 30 days after the date of notification of the application.”.

14. In rule 21—

(a) in paragraph (3), after the word “service” there shall be inserted the words “and the date of notification of the witness statement”;

(b) in paragraph (4), for the words “the service” there shall be substituted the word “notification”;

(c) in paragraph 6(b), for the word “service” there shall be substituted the word “notification”;

and

(d) in paragraph 6(c), for the words from “the service” to the end there shall be substituted the words “notification of the Commissioners' statement of case.”.

15.—(1) After rule 21 there shall be inserted the following rule—

“Affidavits and depositions made in other legal proceedings

21A.—(1) If—

(a) an affidavit or deposition made in other legal proceedings (whether civil or criminal) is specified as such in a list of documents served under rule 20(1) by a party to an appeal or application or (in the case of an appeal or application to which rule 20(1) does not apply) in a notice served by such a party at the appropriate tribunal centre, and

(b) it is stated in that list or notice that the party serving the list or notice proposes to give that affidavit or deposition in evidence at the hearing of the appeal or application and that the person who made that affidavit or deposition is dead, or outside the United Kingdom or unfit by reason of his bodily or mental condition to attend as a witness or (as the case may be) that despite the exercise of reasonable diligence it has not been possible to find him,

then, subject to the following paragraphs of this rule, the affidavit or deposition shall be admissible at the hearing of the appeal or application as evidence of any fact stated therein of which oral evidence by the person who made the affidavit or deposition would be admissible.

(2) The time within which a notice may be served under paragraph (1) of this rule shall be before the expiration of 21 days after the date of notification of the notice of appeal or notice of application.

(3) When a proper officer sends a copy of any such list or notice as is mentioned in paragraph (1) of this rule to any person pursuant to rule 20(5) or rule 11(6)(b), he shall also send to that person a copy of this rule.

(4) If a party objects to an affidavit or deposition being read and admitted as evidence under paragraph (1) of this rule, he shall serve a notice of application for directions with regard to that affidavit or deposition at the appropriate tribunal centre not later than 21 days after the date of notification of the list of documents or notice (as the case may be).

(5) At the hearing of an application under paragraph (4) of this rule a tribunal may give directions as to whether, and if so how and on what conditions, the affidavit or deposition may be admitted as evidence and (where applicable) as to the manner in which the affidavit

or deposition is to be proved, and the affidavit or deposition shall be admissible as evidence to the extent and on the conditions (if any) specified in the direction but not further or otherwise.

(6) The members of the tribunal hearing an application under paragraph (4) of this rule shall not sit on the hearing of the appeal or application to which the first-mentioned application relates.”.

(2) In rule 28(1), after the words “of rule 21” there shall be inserted the words “and to rule 21A”.

16. In rule 22(4), for the words from the beginning to “is thereby required.” there shall be substituted the following—

“A summons issued under this rule shall be signed by a chairman or the Registrar and must be served—

- (a) where the witness or third party is an individual, by leaving a copy of the summons with him and showing him the original thereof,
- (b) where the witness or third party is a body corporate, by sending a copy of the summons by post to, or leaving it at, the registered or principal office of the body to be served, not less than 4 days before the day on which the attendance of the witness or third party or the posting of the document is thereby required.”.

17. In rule 26(1), after the word “decision” there shall be inserted the words “or direction”.

18. In rule 29(1)(b), for the words “Taxing Master or District Registrar of the Supreme Court of Judicature in England” there shall be substituted the words “Taxing Master of the Supreme Court or a district judge of the High Court of Justice in England and Wales”.

19. In rule 30(1)—

- (a) for the words “in any event” there shall be substituted the words “subject to paragraph (8) of this rule”; and
- (b) for the words “date of a decision” there shall be substituted the words “date on which the decision is released in accordance with this rule”.

20. In rule 30(2), for the words “date of such direction” there shall be substituted the words “date on which the direction is released in accordance with this rule”.

21. In rule 30(7), after the word “reinstated” there shall be inserted the words “or the decision or direction set aside”.

22. After rule 30(7) there shall be inserted the following paragraph—

“(8) If, at the conclusion of the hearing of a mitigation appeal or a reasonable excuse appeal at which each of the parties appears in person or by his representative, the chairman gives or announces the decision of the tribunal the chairman may ask the parties whether they require the decision of the tribunal to be recorded in a written document in accordance with paragraph (1) of this rule, and if neither of the parties so requires, the foregoing provisions of this rule shall apply as if the appeal had been an application.”.

23. In rule 31—

- (a) at the end of paragraph (1), for the word “centre.”, there shall be substituted the words “centre or by a facsimile of the same being received at the appropriate tribunal centre by facsimile transmission process.”; and
- (b) in paragraph (2), after the word “document” there shall be inserted the words “(including a facsimile of a document)”.

24. After rule 32(3) there shall be inserted the following paragraph—

“(4) Any reference in this rule to the sending of any document to any party to an appeal or application or to any other person by post shall be construed as including a reference to the transmission of a facsimile of such document by facsimile transmission process.”.

Dated 6th February 1991

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Value Added Tax Tribunals Rules 1986.

The changes are:—

(1) an amendment of the definition of a “reasonable excuse appeal” to include liability to a penalty and appeals on “reasonable excuse” grounds under sections 13A and 14A of the Finance Act 1985, inserted by the Finance Act 1989 (c. 26) and the Finance Act 1988 (c. 39) respectively;

(2) a definition of a hardship direction;

(3) clarification of the procedure for authorising persons to perform the duties of the Registrar in Scotland;

(4) an amendment to make the time limits for service of a list of documents consistent with service of a statement of case and an amendment to the date from which time limits are calculated, by relating them to the date of notification rather than the date of service;

(5) deletion of a provision purporting to enable the tribunals to impose penalties;

(6) a provision enabling affidavits and depositions made in other proceedings to be used as evidence before the tribunals, under the direction of the tribunals if their use is opposed;

(7) clarification of the procedure for the service of summonses on individuals and bodies corporate;

(8) clarification of the tribunals' powers to direct that an award of costs be taxed;

(9) an exception (limited to mitigation appeals and reasonable excuse appeals, and then only when the parties consent) to the requirement that all tribunal decisions on the hearing of appeals must be recorded in writing;

(10) a provision to enable documents to be sent to a party or other person by facsimile transmission or by post.