

SCHEDULE 1

RSC ORDER 91
REVENUE PROCEEDINGS

Assignment to Chancery Division, etc.

Rule 1 The following proceedings, namely—

- (a) any case stated for the opinion of the High Court under—
 - (i) section 13 of the Stamp Act 1891(1), or
 - (ii) section 705A of the Income and Corporation Taxes Act 1988(2), or
 - (iii) regulation 22 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(3);
- (b) any appeal to the High Court under—
 - (i) section 53, 56A or 100C (4) of the Taxes Management Act 1970(4), or
 - (ii) section 222 (3), 225, 249 (3) or 251 of the Inheritance Tax Act 1984(5), or
 - (iii) regulation 8 (3) or 10 of the Stamp Duty Reserve Tax Regulations 1986(6);
- (c) any application for permission to appeal under the said section 222 (3) or the said regulation 8 (3); and
- (d) proceedings to which the provisions of section 56A of the Taxes Management Act 1970(7) apply under any enactment or regulation,

shall be assigned to the Chancery Division and heard and determined by a single judge.

Appeal under section 222 of the Inheritance Tax Act 1984(8)

Rule 2.—(1) Order 55 shall not apply in relation to an appeal to the High Court under section 222 (3) of the Inheritance Tax Act 1984 or Regulation 8 (3) of the Stamp Duty Reserve Tax Regulations 1986.

- (2) Such an appeal must be brought by a notice of appeal which must—
 - (a) state the date on which the Commissioners of Inland Revenue (in this rule referred to as the “Board”) gave notice to the appellant under section 221 of the said Act(9) or Regulation 6 of the said Regulations of the determination which is the subject of the appeal;
 - (b) state the date on which the appellant gave to the Board notice of appeal under section 222 (1) of the said Act, or Regulation 8 (1) of the said Regulations and, if the notice was not given within the time limited, whether the Board or the Special Commissioners have given consent to the appeal being brought out of time and if they have, the date on which it was given; and

(1) 1891 c. 39; section 13 was amended by the Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36), section 10(3), schedule 3.

(2) 1988 c. 1; section 705A was inserted by S.I. 1994/1813.

(3) S.I. 1994/1812.

(4) 1970 c. 9; sections 53 and 56A were substituted by S.I. 1994/1813. Section 100C was inserted by the Finance Act 1989 (c. 26).

(5) 1984 c. 51; sections 225 and 251 were substituted by S.I. 1994/1813.

(6) S.I. 1986/1711.

(7) 1970 c. 9; section 56A was substituted by S.I. 1994/1813.

(8) 1984 c. 51.

(9) Section 221 was amended by the Finance Act 1985 (c. 54), section 94, schedule 26, paragraph 5.

Status: This is the original version (as it was originally made).

- (c) either state that the appellant and the Board have agreed that the appeal may be to the High Court or contain an application for permission to appeal to the High Court.
- (3) At the time of issuing the notice of appeal the appellant shall file in Chancery Chambers—
 - (a) two copies of the notice referred to in paragraph (2)(a);
 - (b) two copies of the notice of appeal (under section 222 (1) of the said Act, or Regulation 8 (1) of the said Regulations) referred to in paragraph (2)(b); and
 - (c) where the notice of appeal contains an application for permission to appeal, a witness statement or affidavit setting out the grounds on which it is alleged that the matters to be decided on the appeal are likely to be substantially confined to questions of law.
- (4) The notice of appeal must be issued and served on the Board within 30 days of the date on which the appellant gave to the Board notice of appeal under section 222 (1) of the said Act or Regulation (8)(1) of the said Regulations or, if the Board or the Special Commissioners have given consent to the appeal being brought out of time, within 30 days of the date on which such consent was given.
- (5) The notice of appeal, must specify a date of hearing being not less than 40 days from the issue of the notice of appeal.
- (6) Where the notice of appeal contains an application for permission to appeal to the High Court, a copy of the witness statement or affidavit lodged pursuant to paragraph (3)(c) shall be served on the Board with the notice of appeal and the Board may, within 30 days after service, file in the judge's chambers a witness statement or affidavit in answer and a copy of any such witness statement or affidavit shall be served by the Board on the appellant.
- (7) Except with the permission of the Court, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal not specified in the notice referred to in paragraph (2)(b).

Setting down case stated under Taxes Management Act 1970

Rule 3.—(1) At any time after a case stated under section 705A of the Income and Corporation Taxes Act 1988 or Regulation 22 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 has been filed in Chancery Chambers either party may set down the case for hearing.

(2) On setting down the case the party who sets it down must give notice to the other party that he has done so.

Case stated: notice to be given of certain matters

Rule 4 Not less than 10 days before the hearing of such a case as is mentioned in rule 1 (a) either party must give notice to the other of any point which he intends to take at the hearing and which might take the other party by surprise and leave at Chancery Chambers two copies of the notice for the use of the Court.

Appeals under section 53 and 100C (4) of the Taxes Management Act 1970

Rule 5.—(1) The notice of appeal by which an appeal under section 53 or 100C (4) of the Taxes Management Act 1970 or section 249 (3) or 251 of the Inheritance Tax Act 1984 is brought must be issued out of Chancery Chambers.

(2) Order 55, rule 3 (2), shall apply in relation to the notice of appeal as if the decision, award or determination appealed against were the decision of a court.

(3) The persons to be served with the notice are the General or Special Commissioners against whose decision, award or determination the appeal is brought and—

(a) in the case of an appeal brought under section 100C (4) of the Taxes Management Act 1970 or section 249 (3) of the Inheritance Tax Act 1984 by any party other than the defendant in the proceedings before the Commissioners, that defendant;

(b) in any other case, the Commissioners of Inland Revenue.

(4) Order 55, rules 4 (2) and 5, shall apply in relation to any such appeal as if for the period of 28 days and 21 days therein specified there were substituted a period of 30 days and 35 days respectively.

(5) Within 30 days after the service on them of the notice by which any such appeal is brought, the General or Special Commissioners, as the case may be, must file in Chancery Chambers two copies of a note of their findings and of the reasons for their decision, award or determination and must serve a copy of the note on every other party to the appeal.

(6) Any document required or authorised to be served on the General or Special Commissioners in proceedings to which this rule relates may be served by delivering or sending it to their clerk.

(7) Order 57 shall not apply to proceedings to which this rule applies.

Appeals under section 56A of the Taxes Management Act 1970, section 225 of the Inheritance Tax Act 1984 and regulation 10 of the Stamp Duty Reserve Tax Regulations 1986

Rule 5A.—(1) This rule applies to appeals under section 56A of the Taxes Management Act 1970, section 225 of the Inheritance Tax Act 1984 and regulation 10 of the Stamp Duty Reserve Tax Regulations 1986.

(2) The notice of appeal by which such an appeal is brought must be issued out of Chancery Chambers.

(3) Order 55, rule 3 (2) shall apply in relation to the notice of appeal as if the decision or determination appealed against were the decision of a court.

(4) Order 55, rule 4 (2) shall apply in relation to such an appeal as if for the period of 28 days specified in that rule there were substituted a period of 56 days, except where the appeal is made following the refusal of the Special Commissioners to issue a certificate under section 56A (2)(b) of the Taxes Management Act 1970 or the refusal of permission to appeal to the Court of Appeal under section 56A (2)(c) of that Act.

(5) Where the appeal is made following the refusal of the Special Commissioners to issue a certificate under section 56A (2)(b) of the Taxes Management Act 1970, the period of 28 days specified in Order 55, rule 4 (2) shall be calculated from the date of the release of the decision of the Special Commissioners containing the refusal.

(6) Where the appeal is made following the refusal of permission to appeal to the Court of Appeal under section 56A (2)(c) of the Taxes Management Act 1970, the period of 28 days specified in Order 55, r.4 (2) shall be calculated from the date when permission is refused.

(7) Order 57 shall not apply to proceedings to which this rule applies.

Appeals from value added tax tribunals

Rule 6.—(1) A party to proceedings before a value added tax tribunal who is dissatisfied in point of law with a decision of the tribunal may appeal under section 11 (1) of the Tribunals and Inquiries Act 1992(10) to the High Court and Order 94, rule 9 shall not apply in relation to such an appeal.

(10) 1992 c. 53; section 11(1) was amended by the Education Act 1993 (c. 35) section 181(2); the Sea Fish Conservation Act 1992 (c. 60), section 9; and by the Education Act 1996 (c. 56), section 582(1), schedule 37, Part 1, paragraph 118.

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(2) Such an appeal shall be heard and determined by a single judge of the Queen’s Bench Division or, where both parties consent, by a single judge of the Chancery Division.

(3) Order 55, rule 4 (2) shall apply in relation to any such appeal as if for the period of 28 days specified in that rule there were substituted a period of 56 days, except where the appeal is made following the refusal of the Value Added Tax Tribunal to grant a certificate under article 2 (b) of the Value Added Tax Tribunal Appeals Order 1986⁽¹¹⁾.

(3A) Where the tribunal has refused to grant a certificate under article 2 (b) of the Value Added Tax Tribunal Appeals Order 1986, the 28 day period mentioned in Order 55, rule 4 (2) shall be calculated from the date of the release of the decision of the tribunal containing the refusal.

(4) This rule is without prejudice to the right of the parties to appeal direct to the Court of Appeal in accordance with Order 59, rule 22.

⁽¹¹⁾ S.I. 1986/2288.