
STATUTORY INSTRUMENTS

2003 No. 968

INCOME TAX

CORPORATION TAX

TAXES

The Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2003

<i>Made</i>	- - - -	<i>18th March 2003</i>
<i>Laid before Parliament</i>		<i>1st April 2003</i>
<i>Coming into force</i>	- -	<i>22nd April 2003</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 56B of the Taxes Management Act 1970(1) and section 320(4) of the Proceeds of Crime Act 2002(2), after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(3), and with the consent of the Scottish Ministers(4), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2003 and shall come into force on 22nd April 2003.

Amendments to the Special Commissioners (Jurisdiction and Procedure) Regulations 1994

2. The Special Commissioners (Jurisdiction and Procedure) Regulations 1994(5) shall be amended in accordance with the following Regulations.

3. In regulation 2—

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- (1) 1970 c. 9; section 56B was inserted by the Finance (No. 2) Act 1992 (c. 48), Schedule 16 paragraph 4 and amended by the Finance Act 1994 (c. 9), section 254(2) and (3), and S.I. 1999/678. The powers to make regulations are extended by the Proceeds of Crime Act 2002 (c. 29), section 320(4).
- (2) 2002 c. 29.
- (3) 1992 c. 53.
- (4) The functions of the Lord Advocate under section 56B of the Taxes Management Act 1970 were transferred to the Secretary of State by article 2(1) of, and the Schedule to, the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678). Those functions were then treated as being exercisable in or as regards Scotland, for the purposes of section 63 of the Scotland Act 1998 (c. 46), by article 3 of, and paragraph 4 of Schedule 1 to, the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), and were transferred to the Scottish Ministers by article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).
- (5) S.I. 1994/1811; amended by S.I. 1999/3292, 2000/288 and 2002/2976.

- (a) in the definition of “proceedings”, after paragraph (k), insert—
 - “(ka) any appeal to the Special Commissioners under section 320(1) of the Proceeds of Crime Act 2002”;
 - (b) after the definition of “proceedings in Scotland”, insert—
 - ““respondent” means—
 - (a) in relation to an appeal under section 320(1) of the Proceeds of Crime Act 2002, the Director of the Assets Recovery Agency;
 - (b) in relation to an appeal under regulation 16 of the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003⁽⁶⁾, the Secretary of State;
 - (c) otherwise, the Revenue;”.
4. In regulation 8(1), for “Revenue” substitute “respondent”.
- 5.—(1) In regulation 10(1)—
 - (a) omit “, other than the Revenue;”;
 - (b) in sub-paragraph (b), for “an officer of the Board” substitute “any other party (“inspecting party”)”.

(2) In regulation 10(2), for “officer of the Board”, in both places where it occurs, substitute “inspecting party”.

6. After regulation 12 (expert evidence), insert—

“Appeals under Proceeds of Crime Act 2002

12A.—(1) This regulation applies to an appeal under section 320(1) of the Proceeds of Crime Act 2002⁽⁷⁾.

(2) Paragraphs (3) to (8) apply where the Presiding Special Commissioner nominates an assessor under section 320(2) of that Act in relation to any proceedings.

(3) The assessor shall take such part in the proceedings as the Tribunal may direct and in particular the Tribunal may—

- (a) direct the assessor to prepare a report for the Tribunal on any matter at issue in the proceedings; and
- (b) direct the assessor to attend the whole or any part of the hearing or any preliminary hearing.

(4) Not more than 14 days after the nomination of an assessor, the Clerk shall notify each party in writing of the assessor’s name.

(5) The Tribunal shall send to the parties a copy of any report prepared by the assessor within 21 days of receiving it.

(6) The parties shall have the opportunity to make observations on the assessor’s report within such time and in such manner as the Tribunal shall direct.

(7) The Tribunal shall take any observations made under paragraph (6) into account when making its decision.

(8) The assessor shall not give oral evidence or be open to cross-examination or questioning.”.

⁽⁶⁾ S.I. 2003/96.
⁽⁷⁾ 2002 c. 29.

7. In regulation 14(a) and (b) (representation at hearing), for “Revenue” substitute “respondent”.
8. In regulation 15(5) (hearings in public), after sub-paragraph (a), insert—
 - “(aa) an assessor nominated under section 320(2) of the Proceeds of Crime Act 2002;”.

Signed by authority of the Lord Chancellor

14th March 2003

Rosie Winterton
Parliamentary Secretary
Lord Chancellor’s Department

The Scottish Ministers consent to the making of these Regulations.

18th March 2003

James Wallace
A Member of the Scottish Executive

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 Regulations)

These Regulations amend the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 (S.I.1994/1811) to provide for appeals to the Special Commissioners under section 320 of the Proceeds of Crime Act 2002. These appeals relate to the exercise of Revenue functions, under the 2002 Act, by the Director of the Assets Recovery Agency.

These Regulations provide for the manner in which an assessor nominated under section 320(2) of the 2002 Act is to assist the Special Commissioners.

They make minor amendments effectively to provide that, for the purposes of joinder of additional parties and representation, the respondent in an appeal under section 320 of the 2002 Act will be the Director of the Assets Recovery Agency, and in relation to an appeal against refusal or withdrawal of accreditation as a community development finance institution, the respondent will be the Secretary of State.

They also amend regulation 10 of the 1994 Regulations so that the powers of the Special Commissioners to obtain information conferred by that regulation may be exercised against the Inland Revenue.