

EXPLANATORY MEMORANDUM TO
THE GENERAL COMMISSIONERS AND SPECIAL COMMISSIONERS
(JURISDICTION AND PROCEDURE) (AMENDMENT) REGULATIONS 2007

2007 No. 3612

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2007 ('the Regulations') make amendments to the General Commissioners (Jurisdiction and Procedure) Regulations 1994⁽¹⁾ and the Special Commissioners (Jurisdiction and Procedure) Regulations 1994⁽²⁾.

Amendments to the General Commissioners (Jurisdiction and Procedure) Regulations 1994 enable the General Commissioners of Income Tax to give directions, list a preliminary hearing for the purposes of case management and impose penalties for failure to comply with directions. The Regulations also make simple deletions of the entries relating to Working Tax credits from both 1994 Regulations as amended by the General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2002⁽³⁾ (the 2002 Regulations).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 At present there are no regulations giving the General Commissioners power to make directions or list preliminary hearings to enable the efficient management of complex cases. As a result this amendment has been requested by the judiciary. The Special Commissioners (Jurisdiction and Procedure) Regulations 1994 contain such powers for the use of Special Commissioners.

Both sets of 1994 Regulations as amended by the 2002 Regulations include entries relating to Working Tax credits in accordance with the system of payment via employer formerly operated by HMRC. Therefore, we have taken the opportunity to remove these references,

5. Extent

5.1 This instrument applies to England, Wales, Scotland and Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not

(1) S.I. 1994/1812.

(2) S.I. 1994/1811.

(3) S.I. 2002/2976.

amend primary legislation, no statement is required.

7. Policy background

7.1 The General Commissioners and Special Commissioners (Jurisdiction and Procedure) Regulations provide the rules by which both Tribunals function effectively. The new measures have come about further to the request of the judiciary with a view to making the General Commissioners tribunal more efficient in the management of its caseload. The changes are minor and not politically or legally significant. Consultation has taken place with a limited number of interested bodies and permission was sought and given to consult over the limited period of 5 weeks.

Directions Amendment

7.2 New regulation 3A will give the Tribunal power to give directions to ensure that the proceedings are dealt with economically and fairly. The substance of this rule has been in force for some time in regulation 4 of the Special Commissioners (Jurisdiction and Procedure) Regulations of 1994 and has been effective. It is now to be used by the General Commissioners

Preliminary Hearings Amendment

7.2 New regulation 3B will enable the Tribunal to list a preliminary hearing for the purposes of case management of its own initiative or on the application of a party again to ensure that hearings are dealt with economically and fairly. The essence of this regulation can be found in Regulation 9 of the Special Commissioners (Jurisdiction and Procedure) Regulations of 1994.

Enforcement Amendment

7.3 New regulation 24A gives the Tribunal power to enforce the directions it has given by imposing a penalty for failure to comply. Parties must be given an opportunity to make representations before such a penalty is imposed and any penalty will be subject to the appeal rights under the Taxes Management Act 1970

Working Tax Credits Amendment

7.4 The SI also also make simple deletions of the entries relating to Working Tax credits from both the General Commissioners (Jurisdiction and Procedure) Regulations 1994 and the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 as amended by the 2002 Regulations. These are no longer needed with the ending of PVE (payment via employer).

Consultation

7.5 A public consultation about these amending rules took place between 9th October 2007 and 13th November 2007. Four responses to the consultation paper were received none of which objected to the rules in principle. Three of the queries raised were answerable without amendment and the third concerned a technical drafting point which has now been included in the amendment Rules. The substance of the Rules remains unchanged.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as the changes proposed are minor and should not impact on business, charities, the voluntary or public sectors.

9. Contact

Aundrae Jordine at the Ministry of Justice (Telephone: 020 7340 6540 or e-mail: aundrae.jordine@tribunals.gsi.gov.uk) can answer any queries about the instrument.