



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART V

#### APPEALS AND OTHER PROCEEDINGS

##### *Jurisdiction*

#### 44 General Commissioners.

- (1) Proceedings before the General Commissioners under the Taxes Acts shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.

<sup>F1</sup>(1A) .....

<sup>F1</sup>(1B) .....

[<sup>F2</sup>(2) Where—

- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
- (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules <sup>F3</sup>... .]

- (3) In any case in which proceedings under the Taxes Acts may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties, arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that

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the election has been exercised, or that the time for exercising the election has expired without its being exercised.

[<sup>F4</sup>(3A) Where in any case (including one in which proceedings may be brought as mentioned in subsection (3) above)—

- (a) an appeal has been brought before the General Commissioners: and
- (b) those Commissioners consider that, because of the complexity of the appeal or the length of time likely to be required for hearing it, the appeal should be brought before the Special Commissioners;

the General Commissioners may, with the agreement of the Special Commissioners, and having considered any representations made to them by the parties, arrange for the transfer of the proceedings to the Special Commissioners.]

- (4) No determination of any General Commissioners under the Taxes Acts shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.
- (5) Anything to be done by the General Commissioners may, save as otherwise expressly provided by the Taxes Acts [<sup>F5</sup>or by regulations under section 46A of this Act], be done by any two or more General Commissioners .

#### Textual Amendments

- F1** S. 44(1A)(1B) repealed (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 41 Pt. 5(12)**
- F2** [Finance Act 1988 \(c. 39\)](#), **s. 133(2)(3)** in relation to proceedings instituted on or after 29 July 1988
- F3** Words in s. 44(2) repealed (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 41 Pt. 5(12)**
- F4** [Finance Act 1984 \(c. 43\)](#), s. 127, **Sch. 22 para.5** on and after 1 January 1985; [S.I. 1984/1836 \(C. 45\)](#)
- F5** Words in s. 44(5) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The General and Special Commissioners \(Amendment of Enactments\) Regulations 1994 \(S.I. 1994/1813\)](#), **Sch. 1 para. 3**

#### Modifications etc. (not altering text)

- C1** S. 44: power to modify conferred (E.W.S.) (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), **ss. 13(2)(a)(i)(b)**, 28(2); [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- C2** S. 44 power to apply and modify conferred (26.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#), arts. 1(3), **12(2)(a)(i)(b)**; [S.R. 1999/149](#), art. 2(b)(c), Schs. 1, 2 (with arts. 3-6)
- C3** S. 44(2) applied (6.4.1993) by [The Income Tax \(Employments\) Regulations 1993 \(S.I. 1993/744\)](#), **reg. 11(4)** (revoked (6.4.2004) by [S.I. 2003/2682](#), Sch. 2)
- C4** See—[Finance Act 1988 \(c. 39\)](#), **s. 134(7)**—General Commissioners for Northern Ireland.

## 45 Quorum of Special Commissioners.

- (1) Anything to be done under any Act (including, except where otherwise expressly provided, any Act passed after this Act) by, to or before the Special Commissioners

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[<sup>F6</sup>shall, except in any case where the Presiding Special Commissioner directs otherwise] be done by, to or before a single Special Commissioner, <sup>F7</sup>... ; <sup>F8</sup>...

[<sup>F9</sup>(1A) Nothing in this section applies in relation to proceedings as defined in regulation 2 of the Special Commissioners Regulations but, subject to that, this section applies not only for the purposes of the Taxes Acts but also for the purposes of any other affairs under the care and management of the Board.]

<sup>F10</sup>(2) .....

(3) Proceedings brought[<sup>F11</sup>, in accordance with a direction of the Presiding Special Commissioner] before two or more Special Commissioners may be continued and determined by any one or more of them if the parties to the proceedings have given their consent, and if the continuing Special Commissioner or Commissioners, after such consultation as is practicable with any Special Commissioner retiring from the proceedings, is or are satisfied that to do so will avoid undue delay in the hearing of those or any other proceedings.

<sup>F10</sup>(4) .....

<sup>F10</sup>(5) .....

<sup>F10</sup>(6) .....

#### Textual Amendments

- F6** Finance Act 1984 (c. 43), s. 127, Sch. 22 para. 2(2) on and after 1 January 1985; S.I. 1984/1836 (C.45).
- F7** Repealed by Finance Act 1984 (c. 43), ss. 127, 128(6), Sch. 22 para. 2(2), Sch. 23 Part XIII on and after 1 January 1985; S.I. 1984/1836 (C.45).
- F8** Words in s. 45(1) repealed (with effect in accordance with reg. 1(1) of the amending S.I.) by The General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813), Sch. 1 para. 4(a), **Sch. 2 Pt. I**
- F9** S. 45(1A) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by The General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813), **Sch. 1 para. 4(b)**
- F10** Repealed by Finance Act 1984 (c. 43), ss. 127, 128(6), Sch. 22 para. 2(4), Sch. 23 Part XIII on and after 1 January 1985; S.I. 1984/1836 (C.45).
- F11** Finance Act 1984 (c. 43), s. 127, **Sch. 22 para. 2(3)** on and after 1 January 1985; S.I. 1984/1836 (C.45).

## 46 General and Special Commissioners.

(1) A right to elect to bring an appeal or other proceedings under the Taxes Acts [<sup>F12</sup>or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999][<sup>F13</sup>or by Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999] before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners.

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- (2) Save as otherwise provided in the Taxes Acts [<sup>F14</sup>or in regulations under section 56B of this Act]<sup>F15</sup>... , the determination of the General Commissioners or the Special Commissioners in any proceedings under the Taxes Acts shall be final and conclusive.

#### Textual Amendments

- F12** Words in s. 46(1) inserted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 2](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F13** Words in s. 46(1) inserted (26.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\), art. 1\(3\), Sch. 6 para. 1](#); S.R. 1999/149, art. 2(b)(c), Schs. 1, 2 (with arts. 3-6)
- F14** Words in s. 46(2) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The General and Special Commissioners \(Amendment of Enactments\) Regulations 1994 \(S.I. 1994/1813\), Sch. 1 para. 5](#)
- F15** Words in s. 46(2) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 23, Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

#### Modifications etc. (not altering text)

- C5** S. 46(1) applied (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 18 para. 94\(1\)](#); S.I. 1998/3173, art. 2

#### [<sup>F16</sup>46A Regulations about jurisdiction.

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations—
- (a) providing for appeals or other proceedings under the Taxes Acts to be determined in certain circumstances by the Special Commissioners instead of the General Commissioners or by the General Commissioners instead of the Special Commissioners;
  - (b) providing for appeals or other proceedings under the Taxes Acts that would otherwise be determined by the General Commissioners for one division to be determined in certain circumstances by the General Commissioners for another division;
  - (c) as to the number of General Commissioners or Special Commissioners required or permitted to hear, or perform other functions in relation to, appeals or other proceedings under the Taxes Acts.

[ In subsection (1) above “the Taxes Acts” includes Part II of the Social Security <sup>F17</sup>(1A) Contributions (Transfer of Functions, etc.) Act 1999 [<sup>F18</sup>or by Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999].]

- (2) The regulations may—
- (a) make different provision for different cases or different circumstances, and
  - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (3) Provision made by virtue of subsection (1) or (2) above may include provision amending this or any other Act or any instrument made under an Act.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

- F16** S. 46A inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.3](#)
- F17** S. 46A(1A) inserted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 3; S.I. 1999/527](#), art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F18** Words in s. 46A(1A) inserted (26.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\), art. 1\(3\), Sch. 6 para. 1; S.R. 1999/149](#), art. 2(b)(c), Schs. 1, 2 (with arts. 3-6)

### Modifications etc. (not altering text)

- C6** S. 46A applied (with modifications) (16.7.1992) by [Inheritance Act 1984 \(c. 51\), s. 225A\(1\)](#) (as inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.8](#))
- C7** S. 46A applied (31.7.1997) by [Finance \(No. 2\) Act 1997 \(c. 58\), Sch. 2 para. 11\(1\)](#)
- C8** S. 46A functions transferred (19.5.1999) by [The Transfer of Functions \(Lord Advocate and Secretary of State\) Order 1999 \(S.I. 1999/678\)](#), arts. 1, 2(1), [Sch.](#)
- C9** S. 46A: certain functions made exercisable (30.6.1999) by [The Scotland Act 1998 \(Functions Exercisable in or as Regards Scotland\) Order 1999 \(S.I. 1999/1748\)](#), arts. 1, 3, [Sch. 1 para. 4](#)
- C10** S. 46A(1) functions transferred (1.7.1999) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 1999 \(S.I. 1999/1750\)](#), arts. 1(1), 2, [Sch. 1](#) (with art. 7)
- C11** S. 46A(1)(c)(2)-(4) extended by Stamp Act 1891 (c. 39), s. 13A(4) (as substituted (with application in accordance with s. 109(4) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 12 para. 2](#) (with s. 122))
- C12** S. 46A(1)(c)(2)-(4) extended (with effect in accordance with s. 114(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 17 para. 11\(5\)](#)

### [<sup>F19</sup>46B Questions to be determined by Special Commissioners.

- (1) In so far as the question in dispute on an appeal to which this section applies is a question which under this section is to be determined by the Special Commissioners, the question shall be determined by them.
- (2) This section applies to—
  - [<sup>F20</sup>(a) an appeal against an amendment of a self-assessment under—
    - (i) section 28A(2) or (4) of this Act, or
    - (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;]
  - (b) an appeal against a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part;
  - (c) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement;
  - (d) an appeal against an assessment to tax which is not a self-assessment;
  - (e) an appeal against an amendment under paragraph 7(3) of Schedule 1A to this Act of a claim or election made otherwise than by being included in a return;
  - (f) an appeal against a decision contained in a notice under paragraph 7(3A) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.
- (3) Any question—
  - (a) of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities quoted in The Stock Exchange Daily Official List, and

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- (b) arising in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act, is a question to be determined by the Special Commissioners.
- (4) Any question as to the application of any of the following provisions of the principal Act is a question to be determined by the Special Commissioners—
- (a) Chapter IA or IB of Part XV (settlements);
  - (b) Part XVI (administration of estates);
  - (c) sections 740 and 743(1) (liability in respect of transfer of assets abroad);
  - (d) section 747(4)(a) (liability in respect of controlled foreign company).
- (5) Any question as to the application of—
- (a) section 830 of the principal Act, or
  - (b) section 276 of the 1992 Act,
- (liability in relation to territorial sea and designated areas) is a question to be determined by the Special Commissioners.

#### Textual Amendments

- F19** Ss. 46B, 46C, 46D substituted for s. 47 (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 7](#)
- F20** S. 46B(2)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 24](#); [S.I. 1998/3173](#), art. 2

#### 46C Jurisdiction of Special Commissioners over certain claims included in returns.

- (1) In so far as the question in dispute on an appeal to which this section applies concerns a claim made—
- (a) to the Board, or
  - (b) under any of the provisions of the principal Act listed in subsection (3) below, the question shall be determined by the Special Commissioners.
- (2) This section applies to—
- <sup>F21</sup>(a) an appeal against an amendment of a self-assessment under—
    - (i) section 28A(2) or (4) of this Act, or
    - (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;
  - (b) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement.
- (3) The provisions of the principal Act mentioned in subsection (1) above are—
- (a) section 121(1) and (2) (management expenses of owner of mineral rights);
  - (b) sections 459 and 460 (exemption for certain friendly societies);
  - (c) section 467 (exemption for certain trade unions and employers' associations);
  - (d) sections 527, 534, 536 and 538 (reliefs in respect of royalties, copyright payments etc.);
  - (e) Chapter I of Part XVIII.

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#### Textual Amendments

- F19** Ss. 46B, 46C, 46D substituted for s. 47 (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 7](#)
- F21** S. 46C(2)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 25](#); S.I. 1998/3173, art. 2

#### **46D Questions to be determined by Lands Tribunal.**

- (1) In so far as the question in dispute on an appeal to which this section applies—
- (a) is a question of the value of any land or of a lease of land, and
  - (b) arises in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act,
- the question shall be determined by the relevant Lands Tribunal.
- (2) This section applies to—
- [<sup>F22</sup>(a) an appeal against an amendment of a self-assessment under—
    - (i) section 28A(2) or (4) of this Act, or
    - (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;]
    - (b) an appeal against a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part;
    - (c) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement;
    - (d) an appeal against an assessment to tax which is not a self-assessment;
    - (e) an appeal against an amendment under paragraph 7(3) of Schedule 1A to this Act of a claim or election made otherwise than by being included in a return;
    - (f) an appeal against a decision contained in a notice under paragraph 7(3A) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.
- (3) In this section “the relevant Lands Tribunal” means—
- (a) in relation to land in England and Wales, the Lands Tribunal;
  - (b) in relation to land in Scotland, the Lands Tribunal for Scotland;
  - (c) in relation to land in Northern Ireland, the Lands Tribunal for Northern Ireland.]

#### Textual Amendments

- F19** Ss. 46B, 46C, 46D substituted for s. 47 (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 7](#)
- F22** S. 46D(2)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 26](#); S.I. 1998/3173, art. 2

#### <sup>F19</sup>**47 Special jurisdiction relating to tax on chargeable gains.**

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#### Textual Amendments

**F19** Ss. 46B, 46C, 46D substituted for s. 47 (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 7](#)

<sup>F23</sup> **47A** .....

#### Textual Amendments

**F23** S. 47A added by [Development Land Tax Act 1976 \(c. 24\)](#), Sch. 8 para. 13. Development Land Tax Act 1976 repealed by [Finance Act 1985 \(c. 54\)](#), s. 98(6), [Sch.27 Part X](#).

#### [<sup>F24</sup> **47B** Special jurisdiction relating to Business Expansion Scheme.

If and so far as the question in dispute on any appeal against the refusal of relief under [<sup>F25</sup>Chapter III of Part VII of the principal Act] (relief for investment in corporate trades), or against an assessment withdrawing any such relief, is a question of the value of an interest in land (within the meaning of [<sup>F25</sup>Section 294(5) of that Act], it shall be determined—

- (a) if the land is in England and Wales, on a reference to the Lands Tribunal;
- (b) if the land is in Scotland, on a reference to the Lands Tribunal for Scotland; and
- (c) if the land is in Northern Ireland, on a reference to the Lands Tribunal for Northern Ireland.]

#### Textual Amendments

**F24** S. 47B inserted by [Finance Act 1986 \(c. 41\)](#), s. 40(3), Sch. 9 para. 22 in relation to shares issued at any time after 18 March 1986.

**F25** [Income and Corporation Taxes Act 1988 \(c. 1\)](#), Sch. 29 para. 32.



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