2001 No. 4024

INCOME TAX

The Referrals to the Special Commissioners Regulations 2001

Made - - - - -	*12th December 2001*
Laid before Parliament	*19th December 2001*
Coming into force - -	*31st January 2002*

The Lord Chancellor, in exercise of the powers conferred upon him by section 28ZC(1) to (3) and (7) of the Taxes Management Act 1970(**a**), with the consent of the Scottish Ministers, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Referrals to the Special Commissioners Regulations 2001 and shall come into force on 31st January 2002.

Interpretation

2. In these Regulations—

"the Act" means the Taxes Management Act 1970;

"a referral to the Special Commissioners" means a referral to the Special Commissioners under—

(a) section 28ZA of the Act, or

(b) paragraph 31A of Schedule 18 to the Finance Act 1998(**b**).

Application of provisions of the Act with modifications

3.—(1) Section 56A of the Act (appeals from the Special Commissioners)(**c**) applies in relation to a referral to the Special Commissioners with the following modifications.

(2) For subsection (1) substitute—

"(1) If, in the case of a referral to the Special Commissioners under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998, any party to the referral is dissatisfied in point of law with—

(a) the decision of the Special Commissioners determining the question referred; or

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(**a**) 1970 c. 9. Section 28ZC was inserted, together with sections 28ZA, 28ZB, 28ZD and 28ZE, by paragraph 6(1) of Schedule 29 to the Finance Act 2001 (c. 9).

(**b**) 1998 c. 36. Paragraph 31A was inserted, together with paragraphs 31B to 31D, by paragraph 7(1) of Schedule 29 to the Finance Act 2001.

(**c**) Section 56A was inserted by paragraph 7 of Schedule 22 to the Finance Act 1984 (c. 43), substituted by paragraph 11 to Schedule 1 to the General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813) and amended by regulation 3 of the Special Commissioners (Amendment of the Taxes Management Act 1970) Regulations 1999 (S.I. 1999/3294).

(b) a decision under regulation 19 of the Special Commissioners Regulations(**a**) varying that decision or substituting for it a new decision,

he may appeal against that decision to the High Court.".

(3) In subsection (2)—

(a) for "A party to any appeal in England and Wales" substitute "In the case of any referral in England and Wales, any person";

(b) in paragraph (a) for "appeal" substitute "referral".

(4) In subsection (3) for "in principle or a decision finally determining an appeal" substitute "determining a question referred".

(5) Subsections (8) and (9) shall be omitted.

(6) After subsection (11) add—

"(12) In this section, "party to a referral" means—

(a) in the case of a referral under section 28ZA of this Act, the taxpayer or the officer of the Board; or

(b) in the case of a referral under paragraph 31A of Schedule 18 to the Finance Act 1998, the company or the officer of the Board,

who gave notice of referral under that section or paragraph to the Special Commissioners.".

4.—(1) Section 58 of the Act (proceedings in tax cases in Northern Ireland)(**b**) applies in relation to a referral to the Special Commissioners with the following modifications.

(2) Subsection (2) shall be omitted.

(3) In subsection (2B)—

(a) for "The Taxes Acts" substitute "In their application to Northern Ireland, the Taxes Acts";

(b) for "appeal to the Special Commissioners constituting proceedings in Northern Ireland" substitute "referral to the Special Commissioners under section 28ZA of the Taxes Management Act 1970 or paragraph 31A of Schedule 18 to the Finance Act 1998".

(4) In subsection (2C) omit "on a case stated under regulation 22 of the General Commissioners Regulations or".

(5) Omit subsection (3).

Signed by authorityof the Lord Chancellor

Rosie Winterton
Parliamentary Secretary
Lord Chancellor's Department

5th December 2001

The Scottish Ministers consent to the making of these Regulations.

James R Wallace
A member of the Scottish Executive

12th December 2001

(**a**) The reference is to the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 (S.I. 1994/1811).

(**b**) Section 58 was amended by Part II of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23), sections 134(2) and 135 of, and Part IX of Schedule 14 to, the Finance Act 1988 (c. 39), paragraph 1(1) of Schedule 1 to the Capital Allowances Act 1990 (c. 1), paragraph 12 of Schedule 1 to S.I. 1994/1813, section 30(4)(d) of, and Part III(4) of Schedule 20 to, the Finance Act 1999 (c. 16) and paragraph 3 of Schedule 2 to the Capital Allowances Act 2001 (c. 2).

EXPLANATORY NOTE

(This Note is not part of the Regulations)

Sections 28ZA to 28ZE of the Taxes Management Act 1970 (inserted by paragraph 6(1) of Schedule 29 to the Finance Act 2001) provide for the subject-matter of an enquiry in progress under section 9A(1) or 12AC(1) of that Act to be referred to the Special Commissioners for their determination. Paragraphs 31A to 31D of Schedule 18 to the Finance Act 1998 (inserted by paragraph 7(1) of Schedule 29 to the Finance Act 2001) make similar provision in relation to an enquiry in progress into a company's tax return.

In relation to such referrals to the Special Commissioners, these Regulations apply sections 56A and 58 of the Taxes Management Act 1970 with modifications so as to ensure that there are similar rights of appeal from the Special Commissioners in relation to a determination on a referral as there are in relation to the determination of an appeal.

STATUTORY INSTRUMENTS

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