STATUTORY INSTRUMENTS

2004 No. 1363

TAXES

The Stamp Duty Land Tax (Appeals) Regulations 2004

Made - - - - -	*10th May 2004*
Laid before Parliament	*17th May 2004*
Coming into force - -	*11th June 2004*

The Lord Chancellor, in exercise of the powers conferred upon him by section 115 of, and paragraphs 2, 3, 5, 6, 7, 9 and 11(3)(a) of Schedule 17 to, the Finance Act 2003(**a**) and section 56B of the Taxes Management Act 1970(**b**), after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(**c**), and with the consent of the Scottish Ministers(**d**), hereby makes the following Regulations:

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Land Tax (Appeals) Regulations 2004 and shall come into force on 11th June 2004.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

"Act" means the Finance Act 2003;

"appeal" means any appeal to the General Commissioners or the Special Commissioners under the enactments relating to stamp duty land tax and any other proceedings brought before the General Commissioners or the Special Commissioners which under the enactments relating to stamp duty land tax are to be heard and determined in the same way as an appeal;

"the Commissioners" means the General Commissioners or the Special Commissioners as the case may be;

"the enactments relating to stamp duty land tax" means Part 4 of the Finance Act 2003 and any regulations made under that Part;

(**a**) 2003 c. 14.

(**b**) 1970 c. 9. Section 56B was inserted by section 76 of and paragraph 4 of Schedule 16 to the Finance (No. 2) Act 1992 (c. 48) and section 254(2) and (3) of the Finance Act 1994 (c. 9).

(**c**) 1992 c. 53.

(**d**) 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 (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 (S.I. 1999/1750).

"the Inland Revenue" means any officer of the Board, but in relation to any decision appealed against means—

(a) an officer of the Board, if the decision was made by an officer; or

(b) the Board if the decision was made by the Board.

(2) In these Regulations a reference to a section, Part or Schedule respectively by number alone is a reference to the section, Part or Schedule so numbered respectively in the Act.

PART 2

Appeals, Jurisdiction and Other Matters

Appeals to General Commissioners

3.—(1) Appeals shall be to the General Commissioners, subject to—

(a) regulation 4 (appeals to Special Commissioners),

(b) regulation 6 (questions to be determined by the relevant Lands Tribunal), and

(c) any other provision in any of the enactments relating to stamp duty land tax which provide for an appeal to be brought to the Special Commissioners to the exclusion of the General Commissioners.

(2) Paragraph (1) has effect subject also to any election under regulation 5 (election to bring an appeal before Special Commissioners).

Appeals to Special Commissioners

4.—(1) Unless the Special Commissioners otherwise direct, an appeal under paragraph 35(1) of Schedule 10 shall be to the Special Commissioners if—

(a) the appeal relates to an assessment in relation to which notice of enquiry has been given under paragraph 12 of Schedule 10; and

(b) notice has been given referring any question arising in connection with the subject matter of the enquiry to the Special Commissioners under—

(i) paragraph 19 of Schedule 10; or

(ii) paragraph 12 of Schedule 11;

even if the notice of referral was subsequently withdrawn.

(2) An appeal under paragraph 35(1) of Schedule 10 against a revenue assessment made by the Board under Part 5 of Schedule 10 shall be to the Special Commissioners.

Appeals: election to bring an appeal before Special Commissioners

5.—(1) The appellant may elect to bring before the Special Commissioners any appeal that would otherwise be to the General Commissioners under regulation 3(1).

(2) Any such election shall be exercised by notice together with the notice of appeal, or by a separate notice in writing to the Inland Revenue (as appropriate) within the time for bringing the proceedings, and if no such notice of election is given the appeal shall be brought before the General Commissioners.

(3) Any such election shall be disregarded if—

(a) the appellant and the Inland Revenue agree in writing, at any time before the determination of the appeal, that it is to be disregarded, or

(b) the General Commissioners have given a direction under paragraph (6) below and have not revoked it.

(4) Where an election has been made under paragraph (1), the Inland Revenue may refer the election to the General Commissioners.

(5) A reference under paragraph (4) above must be made—

(a) after giving notice to the appellant, and

(b) before the determination of the appeal in respect of which the election has been made.

(6) On a reference under paragraph (4) the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.

(7) If at any time after giving a direction under paragraph (6) (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.

(8) A decision to give or revoke a direction under paragraphs (6) or (7) respectively shall be final.

Questions to be determined by the relevant Lands Tribunal

6.—(1) Where the question in dispute on any appeal under paragraphs 34(6) or 35(1) of Schedule 10 is a question of the market value of the subject matter of the land transaction that question shall be determined on a reference by the relevant Lands Tribunal.

(2) In this regulation "the relevant Lands Tribunal" means—

(a) where the land is in England and Wales, the Lands Tribunal;

(b) where the land is in Scotland, the Lands Tribunal for Scotland;

(c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

Assigning Proceedings to General Commissioners

7.—(1) In this regulation and regulations 8 to 13 and 15—

"proceedings" means as appropriate—

(a) any appeal; and

(b) proceedings under—

(i) section 82(4);

(ii) paragraphs 5 and 24 of Schedule 10; and

(iii) regulations 19 and 22 of the Stamp Duty Land Tax (Administration) Regulations 2003(**a**);

"division" means the division of General Commissioners before whom the proceedings will be heard.

(2) Any proceedings, which are to be heard by any General Commissioners, shall, subject to regulations 8 to 13, be brought before the division which covers the place where the subject matter of the land transaction is situated.

Assignment to General Commissioners: purchaser's election for place of business or residence

8.—(1) For the purposes of regulations 8 to 11 and 13—

"company's place of business" where the purchaser is a company, means either the place where, at the time when the election is made, the company carries on its trade or business, or the place where, at that time, the company's head office is situated;

"place of business" where the purchaser is an individual, means the place where the individual's trade, profession, vocation or business is carried on;

"place of residence" where the purchaser is an individual, means an individual's usual place of residence;

"partnership's place of business" where the purchaser is a partnership, means the place where, at the time when the election is made, the partnership carries on or mainly carries on (if at more than one place) its trade, profession or business.

(2) A purchaser may elect to have any proceedings which are to be heard by any General Commissioners brought before the division which covers the area within which—

(a) his place of residence (where the purchaser is an individual);

(b) his place of business (if any) (where the purchaser is an individual);

(c) the company's place of business (where the purchaser is a company); or

(d) the partnership's place of business (where the purchaser is a partnership);

is situated.

(**a**) S.I. 2003/ 2837.

Assignment to General Commissioners: purchaser's election in linked transactions

9. Where—

(a) there are two or more linked transactions with the same effective date; and

(b) a single land transaction return; and

(c) there is more than one division which covers the places where the subject matters of the land transaction are situated,

then, a purchaser may elect to have any proceedings which are to be heard by any General Commissioners brought before the division which covers any one of—

(i) the addresses of the subject matters of the land transaction; or

(ii) the places referred to in regulation 8(2).

Assignment to General Commissioners: purchaser's election where one transaction and more than one division

10. Where one or more divisions covers the place where the subject matter of a land transaction is situated, then a purchaser may elect to have any proceedings which are to be heard by any General Commissioners brought before—

(a) any one of those divisions; or

(b) the division which covers one of the places specified in regulation 8(2).

Assignment to General Commissioners: further returns under section 81

11.—(1) Any proceedings which are to be heard by any General Commissioners relating to a return under section 81 shall be brought before the division, which covers the place where the subject matter of the land transaction for which relief has been withdrawn pursuant to section 81 is situated.

(2) The provisions of regulation 8 and regulation 14 shall apply for the purpose of this regulation in relation to these proceedings as they apply to the proceedings to which the provisions of those regulations apply.

Assignment to General Commissioners by agreement

12. Notwithstanding the provisions of regulations 7 to 11—

(a) where the parties to any proceedings which are to be heard by any General Commissioners have agreed, whether before or after the institution of those 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 in writing served on the other party before that time,

the proceedings shall be brought before the General Commissioners for the division so specified.

Assigning proceedings commenced by the Inland Revenue to General Commissioners

13. Where any proceedings which are to be heard by any General Commissioners are commenced by the Inland Revenue, the Inland Revenue shall elect to have those proceedings heard by the division which covers—

(a) either the place referred to in regulation 7(2); or

(b) one of the places referred to in regulation 8.

Assignment to General Commissioners: Notice of election

14.—(1) An election by a purchaser under the provisions of regulations 8, 9, 10 or 11(2) shall be made by notice in writing to the Inland Revenue, and the time limit for the making of such an election is—

(a) the time when the purchaser gives notice of appeal, or as appropriate, otherwise commences the proceedings; or

(b) such later date as the Board allows.

(2) Such an election shall be irrevocable.

(3) An election by the Inland Revenue under regulation 13 shall be made by notice in writing and served on the purchaser.

Directions by the Board

15.—(1) The Board may give a direction in relation to any proceedings which are to be heard by any General Commissioners that, notwithstanding the provisions of regulations 8, 9, 10 or 11(2), those proceedings shall be heard by the division specified in the direction where—

(a) there is more than one purchaser; and

(b) the purchasers elect different divisions; or

(c) where the purchaser or one of them fails to exercise their right to elect under regulations 9,10 or 11(2);

provided that the division specified in that direction covers either—

(i) the place where the subject matter of the land transaction is situated; or

(ii) one of the places referred to in regulation 8.

(2) A direction given under paragraph (1) shall not have effect in relation to such proceedings unless the Inland Revenue has served on all the purchasers a notice in writing stating the effect of the direction.

Transfer of appeals where there is a right of election

16. In any appeal to which regulation 5 applies, 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 to the appeal, arrange with the other Commissioners concerned for the transfer of that appeal to those other Commissioners, and the appeal may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without it being exercised.

Transfer of complex or lengthy appeals to Special Commissioners

17. Where in any case (including cases to which regulation 16 applies)—

(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 appeal to the Special Commissioners.

Determinations of General Commissioners

18. No determination of any General Commissioners in any proceedings under the enactments relating to stamp duty land tax shall be questioned, whether by case stated under section 56 of the Taxes Management Act 1970(**a**) as applied as modified by these regulations or otherwise, on the ground that these regulations 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 proceedings leading to the determination.

(**a**) Section 56 was amended by regulation 2 of and paragraphs 10(a), (b), (c) and (d) of Schedule 1 to and Part I of Schedule 2 to the General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813) and section 127 of the Finance Act 1984 (c. 43) and section 156 of the Finance Act 1989 (c. 26) and sections 44(7) and 45(3) of the Finance (No.2) Act 1975 (c. 45) and section 41 of and paragraph 15 of Schedule 8 to the Development Land Tax Act 1976 (c. 40) and section 98(6) of and Part X of Schedule 27 to the Finance Act 1985 (c. 54).

Shares or securities valuations to be determined by Special Commissioners

19. Insofar as the question in dispute in any appeal—

(a) is a question of the value of shares or securities in a company resident in the UK, other than shares or securities quoted in the Stock Exchange Daily Official List; and

(b) those shares or securities are given as chargeable consideration for a land transaction;

then that question shall be determined by the Special Commissioners.

Quorum of General Commissioners

20. Subject to the provisions of paragraphs 2(1), 7(1), 9(2), 24(3) or 53(3)(a) of Schedule 13, anything to be done by the General Commissioners may be done by any two or more General Commissioners.

Determinations of Commissioners

21. Save as otherwise provided in—

(a) the Taxes Management Act 1970 as applied as modified through these regulations, or otherwise; or

(b) the enactments relating to stamp duty land tax;

the determination of the Commissioners in relation to any proceedings under the enactments relating to stamp duty land tax shall be final and conclusive.

Assessments and self-assessments

22.—(1) In this regulation any reference to an appeal means an appeal under paragraphs 33(4), or 35(1) of Schedule 10.

(2) If on an appeal it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other evidence—

(a) that the appellant is overcharged by a self-assessment; or

(b) that the appellant is overcharged by an assessment other than a self-assessment,

the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.

(3) If, on an appeal it appears to the Commissioners—

(a) that the appellant is undercharged to stamp duty land tax by a self-assessment; or

(b) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment shall be increased accordingly.

(4) Where, on an appeal against an assessment other than a self-assessment which—

(a) assesses an amount which is chargeable to stamp duty land tax, and

(b) charges stamp duty land tax on the amount assessed,

it appears to the Commissioners as mentioned in paragraphs (2) or (3) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed; and where an appeal is so determined the stamp duty land tax charged by the assessment shall be taken to have been reduced or increased accordingly.

PART 3

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

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

23.—(1) In this regulation any reference to a regulation by number alone is a reference to the regulation so numbered in the General Commissioners (Jurisdiction and Procedure) Regulations 1994(**a**).

(2) In regulation 2—

(a) in the definition of "inspector" after "taxes" insert "and in relation to stamp duty land tax means any officer of the Board";

(**a**) S.I.1994/1812, amended by S.I. 1999/3293 and S.I. 2002/2976.

(b) in the definition of "proceedings"—

after sub-paragraph (e) insert—

"(f) any appeal to the General Commissioners under the enactments relating to stamp duty land tax;

(g) any proceedings before the General Commissioners which under any enactments relating to stamp duty land tax are to be heard and determined in the same way as such an appeal or any other proceedings to the General Commissioners under the enactments relating to stamp duty land tax;";

(c) after the definition of "Special Commissioners" insert—

""the enactments relating to stamp duty land tax" means Part 4 of the Finance Act 2003 and any regulations made under that Part;".

(3) For regulation 4(9) substitute—

"(9) No person who has been appointed as an auditor for the purposes of any enactment or who is a tax adviser within the meaning of section 20B(10) of the Management Act or paragraph 26 of Schedule 13 to the Finance Act 2003 shall be compelled in obedience to a witness summons to produce any document if, having regard to section 20B(9) to (13) of that Act, or paragraphs 26 and 27 of Schedule 13 to the Finance Act 2003, he would not be obliged to deliver or make available that document in response to a notice under section 20(3) or (8A) of that Act or paragraphs 6 to 13 of Schedule 13 to the Finance Act 2003".

(4) In regulation 4(10) after "Act" insert "or paragraph 27(3) of Schedule 13 to the Finance Act 2003".

(5) In regulation 7(2) after "tax" insert "or stamp duty land tax".

(6) 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")".

(7) In regulation 10(2)—

(a) for "officer of the Board", in both places where it occurs, substitute "inspecting party";

(b) after "Tribunal" insert "who issued the notice,".

(8) In regulation 16(5) after "provisions" insert "as appropriate" and in sub-paragraph (a) after "Act", insert "or" and after sub-paragraph (a) insert—

"(aa) Part 4 of the Finance Act 2003 and any regulations made under that Part,".

(9) In regulation 19(1) after "Management Act" insert " or regulations 6 or 19 of the Stamp Duty Land Tax (Appeals) Regulations 2004(**a**)".

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

24.—(1) In this regulation any reference to a regulation by number alone is a reference to the regulation so numbered in the Special Commissioners (Jurisdiction and Procedure) Regulations 1994(**b**).

(2) In regulation 2—

(a) after "the enactments relating to stamp duty" insert—

""the enactments relating to stamp duty land tax" means Part 4 of the Finance Act 2003 and any regulations made under that Part;";

(b) in the definition of "inspector" after "taxes" insert "and in relation to stamp duty land tax means any officer of the Board";

(**a**) S.I. 2004/1363.

(**b**) S.I. 1994/1811, amended by S.I. 1999/3292, S.I. 2000/288, S.I. 2002/2976 and S.I. 2003/968.

(c) in the definition of "proceedings"—

(i) in paragraph (g) after "Act" insert "or regulation 19 of the Stamp Duty Land Tax (Appeals) Regulations 2004";

(ii) after paragraph (l) insert—

"(m) any appeal to the Special Commissioners under the enactments relating to stamp duty land tax;

(n) any proceedings before the Special Commissioners which under any enactments relating to stamp duty land tax are to be heard and determined in the same way as such an appeal or any other proceedings to the Special Commissioners under the enactments relating to stamp duty land tax;".

(3) For regulation 5(9) substitute—

"(9) No person who has been appointed as an auditor for the purposes of any enactment or who is a tax adviser within the meaning of section 20B(10) of the Management Act or paragraph 26 of Schedule 13 to the Finance Act 2003 shall be compelled in obedience to a witness summons to produce any document if, having regard to section 20B(9) to (13) of that Act, or paragraphs 26 and 27 of Schedule 13 to the Finance Act 2003, he would not be obliged to deliver or make available that document in response to a notice under section 20(3) or (8A) of that Act or paragraphs 6 to 13 of Schedule 13 to the Finance Act 2003".

(4) In regulation 5(10) after "Act" insert "or paragraph 27(3) of Schedule 13 to the Finance Act 2003".

(5) In regulation 8(2)(a) after "tax" insert "or stamp duty land tax".

(6) In regulation 18(10) after "provisions" insert "as appropriate" and in sub-paragraph (a) after "Act", insert "or" and after sub-paragraph (a) insert—

"(aa) Part 4 of the Finance Act 2003 and any regulations made under Part 4,".

(7) In regulation 23(1) after "1984" insert "or regulation 6 of the Stamp Duty Land Tax (Appeals) Regulations 2004,".

PART 4

Taxes Management Act 1970

Application of provisions of the Taxes Management Act 1970 in relation to appeals from the General and Special Commissioners with modifications

25.—(1) In this regulation reference to a section alone is reference to the section so numbered in the Taxes Management Act 1970.

(2) For the purposes of these regulations sections 56, 56A, 58 and 118(1) of the Taxes Management Act 1970 shall apply in relation to appeals from the General and Special Commissioners with the following modifications—

(a) in section 56(9) for "tax" wherever it appears, substitute "stamp duty land tax".

(b) in section 56A(8) for "tax" substitute "stamp duty land tax".

(c) in section 56A(9) for "tax" wherever it appears, substitute "stamp duty land tax".

(d) in the side-note to section 58 for "tax" substitute "stamp duty land tax".

(e) in section 58(2) after "section 56 of this Act" insert "as modified by regulation 25 of the Stamp Duty Land Tax (Appeals) Regulations 2004".

(f) in section 58(2B) after "section 56A of this Act" insert "as modified by regulation 25 of the Stamp Duty Land Tax (Appeals) Regulations 2004".

(g) in section 58(3)(a) for "the rules in Schedule 3 to this Act" substitute "regulations 7 to 13 and 15 of the Stamp Duty Land Tax (Appeals) Regulations 2004".

(h) in section 118(1) in the definition of "the Taxes Act" after sub-paragraph (c) insert—

"(d) for the purposes of section 58 of this Act includes Part 4 of the Finance Act 2003 and any regulations made under that Part,".

Application of provisions of the Taxes Management Act 1970 with modifications in relation to referrals to the Special Commissioners under Schedules 10 and 11

26.—(1) In this regulation—

"the Management Act" means the Taxes Management Act 1970;

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

(a) paragraph 19 of Schedule 10; or

(b) paragraph 12 of Schedule 11.

(2) Section 56A of the Management Act(**a**) (Appeals from the Special Commissioners) applies in relation to a referral to the Special Commissioners with the following modifications.

(3) For subsection (1) substitute—

"(1) If, in the case of a referral to the Special Commissioners under paragraph 19 of Schedule 10 or paragraph 12 of Schedule 11 to the Finance Act 2003, any party to the referral is dissatisfied in point of law with—

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

(b) a decision under regulation 19 of the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 varying that decision or substituting for it a new decision,

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

(4) 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 sub-paragraph (a) for "appeal" substitute "referral".

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

(6) Omit subsections (8) and (9).

(7) After subsection (11) add—

"(12) In this section, in the case of a referral under paragraph 19 of Schedule 10 or paragraph 12 of Schedule 11 to the Finance Act 2003, "party to a referral" means the purchaser or the Inland Revenue who gave notice of referral under either of those paragraphs respectively to the Special Commissioners.".

(8) Section 58 of the Management Act(**b**) (proceedings in tax cases in Northern Ireland) as modified by regulation 25 of these regulations as appropriate applies in relation to a referral to the Special Commissioners with the following modifications.

(9) Subsection (2) shall be omitted.

(10) In subsection (2B)—

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

(**a**) Section 56A was substituted by regulation 2(1) of and paragraph 11 of Schedule 1 to 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**) Section 58 was amended by section 122(1) of and Part II of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23) and sections 134(2), (4), (5), 135 and 148 of the Finance Act 1988 (c. 39) and Part IX of Schedule 14 to the Finance Act 1988 and regulation 2(1) of and paragraphs 1 and 12(a) of Schedule 1 to S.I. 1994/1813 and sections 30(4)(d), (5) and 139 of and Part III (4) of Schedule 20 to the Finance Act 1999 (c. 16) and section 578 of and paragraph 3 of Schedule 2 to the Capital Allowances Act 2001 (c. 2) and by section 40 of and Schedule 6 to the Tax Credits Act 2002 (c. 21).

(b) for "appeal to the Special Commissioners constituting proceedings in Northern Ireland" substitute "referral to the Special Commissioners under paragraph 19 of Schedule 10 or paragraph 12 of Schedule 11 to the Finance Act 2003".

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

(12) Omit subsection (3).

Signed by authority of the Lord Chancellor

Filkin
Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Dated 28th April 2004

The Scottish Ministers consent to the making of these Regulations

Cathy Jamieson
A Member of the Scottish Executive

Dated 10th May 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 4 of the Finance Act 2003 (c.14) ("the Act") introduces stamp duty land tax, a transaction tax on land transfers. These Regulations make provision for appeals and other proceedings, which will be determined by the Commissioners in relation to that tax.

Part 1 of these Regulations (regulations 1 and 2) contains general provisions.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Part 2 of these Regulations (regulations 3 to 22) contains regulations, which provide for the jurisdiction of the Commissioners in relation to appeals and various other matters relating to appeals and other proceedings before the Commissioners.

Regulation 3 provides, subject to certain exceptions, that the General Commissioners shall hear all appeals.

Regulation 4 specifies which appeals the Special Commissioners shall hear.

Regulation 5 provides an appellants right of election to have any appeals that would otherwise be to the General Commissioners heard by the Special Commissioners and for the giving of notice in relation to such elections and also provides for the circumstances in which that election may be exercised.

Regulation 6 provides, in relation to certain appeals, for disputed questions of market value to be referred to the Lands Tribunal.

Regulations 7 to 13 make provision as to which division of General Commissioners will determine appeals and other proceedings in relation to that tax and in particular makes special provision for, amongst others, linked transactions, further returns under section 81 and assignment by agreement.

Regulation 14 provides for the giving of notice in relation to elections as to assignment of appeals and other proceedings to the General Commissioners.

Regulation 15 provides, in certain circumstances, for directions to be given by the Board to override any purchaser's election made in relation to assignment of any appeal or other proceeding to be heard by the General Commissioners to any particular General Commissioners division or where the purchaser or one of them fails to exercise their right to elect under regulations 9, 10 or 11(2).

Regulation 16 makes provision in relation to transfer of appeals to the Special Commissioners where there is a right of election to have an appeal heard by the Special Commissioners instead of the General Commissioners.

Regulation 17 provides for the General Commissioners, with the agreement of the Special Commissioners to transfer complex or lengthy appeals to them.

Regulation 18 makes provision for the circumstances in which General Commissioners determinations in relation to any proceedings under the enactments relating to stamp duty land tax may be questioned.

Regulation 19 makes provision for determinations by the Special Commissioners of questions of share values or securities values arising in any appeals.

Regulation 20 makes provision as to quorum in relation to any determination of the General Commissioners.

Regulation 21 makes provision in relation to the finality of the Commissioners determinations in relation to appeals.

Regulation 22 provides in particular for the consequences of any determination by the General or Special Commissioners in respect of assessments and self assessments in relation to appeals under paragraph 33(4) or 35(1) of Schedule 10 to the Act.

Part 3 of these Regulations (regulations 23 and 24) makes provision for amendments to the General Commissioners (Jurisdiction and Procedure) Regulations 1994 and the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 that are necessary for the purposes of this tax. Regulation 23 also amends regulation 10 of General Commissioners

(Jurisdiction and Procedure) Regulations 1994 (Power of Tribunal to obtain information) so that the powers of the General Commissioners to obtain information conferred by that regulation may be exercised against the Inland Revenue.

Part 4 of these Regulations (regulations 25 and 26) makes provision for application of provisions of the Taxes Management Act 1970 in relation to appeals from the General and Special Commissioners with modifications and application of provisions of that Act with modifications in relation to appeals from the Special Commissioners in relation to referrals to them under Schedules 10 and 11 of the Act respectively.

ISBN 0-11-049313-3

9 780110 493138

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0646 5/2004 140646 19585