

## SCHEDULE 1

Regulation 2(1)

### AMENDMENTS

1. The Acts and statutory instruments listed below shall have effect subject to the amendments made by paragraphs 2 to 38.

#### *Taxes Management Act 1970 c. 9*

2. In section 33(4), for the words from “require” to “than” there shall be substituted the words “appeal under section 56A of this Act against the determination of the Special Commissioners except”.

3. In section 44(5), after the words “Taxes Acts” there shall be inserted the words “or by regulations under section 46A of this Act”.

4. In section 45(1)—

(a) in subsection (1), the words from “and this section” to the end shall be omitted;

(b) after subsection (1) there shall be inserted—

“(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.”.

5. In section 46(2)(2), after the words “Taxes Acts” where they first occur there shall be inserted the words “or in regulations under section 56B of this Act”.

6. In section 50(3)—

(a) subsections (1) to (5) shall be omitted;

(b) in subsection (6) the word “lawful” shall be omitted.

7. Sections 51 and 52 shall be omitted.

8. For section 53(4) there shall be substituted—

#### **“53 Appeals against summary determination of penalties.**

(1) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, against the summary determination by the Commissioners of any penalty pursuant to regulations under section 56B of this Act.

(2) On any such appeal the court may either confirm or reverse the determination of the Commissioners or reduce or increase the sum determined.”.

9. In section 55(5)—

(a) in subsection (6) the word “lawful” shall be omitted;

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- (1) Section 45 was amended by paragraph 2 of Schedule 22, and Part XIII of Schedule 23, to the Finance Act 1984.
- (2) Section 46(2) was amended (prospectively) by paragraph 16 of Schedule 19 to the Finance Act 1994.
- (3) Section 50 was amended by section 67(2) of the Finance (No. 2) Act 1975 (c. 45), Part V of Schedule 14 to the Finance Act 1988, and (prospectively) paragraph 17 of Schedule 19 to the Finance Act 1994.
- (4) Section 53 was amended by section 129 of the Finance Act 1972 (c. 41), and section 168(3) of, and Part VIII of Schedule 17 to, the Finance Act 1989 (c. 26).
- (5) Section 55 was substituted by section 45(1) of the Finance (No. 2) Act 1975, and the section as substituted was amended by section 68 of the Finance Act 1982 (c. 39), Part XIII of Schedule 23 to the Finance Act 1984, paragraphs 8 and 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1), section 156(2) of the Finance Act 1989, section 104(2) of the Finance Act 1990 (c. 29), and (prospectively) paragraph 18 of Schedule 19 to the Finance Act 1994.

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- (b) in subsection (11) after the word “Act” there shall be inserted the words “or under regulations made pursuant to section 46A of this Act”.

**10.** In section 56(6)—

- (a) subsections (1), (2), (4) and (5) shall be omitted;
- (b) in subsection (3) for the words “The party requiring the case” there shall be substituted the words “Where a party to an appeal requires the Commissioners to state and sign a case under regulation 20(1) of the General Commissioners Regulations, he”;
- (c) in subsection (6) for the words “arising on the case” there shall be substituted the words “arising on a case stated and transmitted to the High Court under regulation 22 of the General Commissioners Regulations”;
- (d) in subsection (9) for the words from the beginning to “a case” there shall be substituted the words “Where a party to an appeal against an assessment has required a case to be stated under regulation 20(1) of the General Commissioners Regulations, then notwithstanding that the case”.

**11.** For section 56A(7) there shall be substituted—

**“56A Appeals from the Special Commissioners.**

(1) If, in the case of any appeal to the Special Commissioners, the appellant or the inspector or other officer of the Board is dissatisfied in point of law—

- (a) with a decision in principle given under regulation 18 of the Special Commissioners Regulations;
- (b) with the decision finally determining the appeal; or
- (c) with a decision under regulation 19 of those Regulations varying a decision such as is mentioned in paragraph (a) or (b) above or substituting for it a new decision,

he may appeal against that decision to the High Court.

(2) A party to any appeal in England and Wales who under subsection (1) above has the right to appeal against any decision to the High Court may instead appeal directly to the Court of Appeal if—

- (a) all the parties to the appeal consent;
- (b) the Special Commissioners certify that the decision involves a point of law relating wholly or mainly to the construction of an enactment which was fully argued before them and fully considered by them; and
- (c) the leave of the Court of Appeal has been obtained.

(3) Where a decision in principle or a decision finally determining an appeal is set aside or varied under regulation 19 of the Special Commissioners Regulations, an appeal against that decision under subsection (1) or (2) above that has not yet been determined shall be treated as withdrawn at the time the decision is set aside or varied.

(4) The High Court or, as the case may be, the Court of Appeal shall hear and determine any question of law arising on an appeal under subsection (1) or (2) above and may reverse, affirm or vary the decision appealed against, or remit the matter to the Special Commissioners with the Court’s opinion on it, or make such other order in relation to the matter as the Court thinks fit.

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(6) Section 56 was amended by section 45(3) of the Finance (No. 2) Act 1975, paragraph 6 of Schedule 22 to the Finance Act 1984 and section 156(3) of the Finance Act 1989.

(7) Section 56A was inserted by paragraph 7 of Schedule 22 to the Finance Act 1984.

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(5) Subject to subsection (7) below and to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords)(**8**), an appeal shall lie to the Court of Appeal and thence to the House of Lords from the decision of the High Court on an appeal in England and Wales under subsection (1) above.

(6) Subject to subsection (7) below, an appeal shall lie to the House of Lords from the decision of the Court of Appeal on an appeal under subsection (2) above.

(7) An appeal shall not lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934(**9**) .

(8) Where the decision appealed against under subsection (1) or (2) above is a decision on an appeal against an assessment, then notwithstanding that the appeal under that subsection is pending, tax shall be paid in accordance with the determination of the Special Commissioners who made that decision.

(9) If in such a case the amount charged by the assessment is altered by the order or judgment of the High Court or, as the case may be, the Court of Appeal, then—

(a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court or, as the case may be, the Court of Appeal may allow; or

(b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector issues to the other party a notice of the total amount payable in accordance with the order or judgment of the High Court or, as the case may be, the Court of Appeal.

(10) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer (references in this section to the High Court being construed accordingly); and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.

(11) This section has effect in Northern Ireland subject to section 58 below.”.

**12.** In section 58(**10**) —

(a) for subsection (2) there shall be substituted—

“(2) A case which is stated by the General Commissioners under regulation 22 of the General Commissioners Regulations in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts shall have effect as if section 56 of this Act applied in relation to such proceedings—

(a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and

(b) with the omission of subsection (8) of that section,

and the procedure relating to the hearing and determination of the case by the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in the exercise of its general jurisdiction.”;

(a) subsection (2A) shall be omitted and before subsection (3) there shall be inserted—

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(8) 1969 c. 58.

(9) 1934 c. 40.

(10) Section 58 was amended by Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23), sections 134 and 135 of, and Part IX of Schedule 14 to, the Finance Act 1988, and section 164(3) of, and paragraph 1(1) of Schedule 1 to, the Capital Allowances Act 1990 (c. 1).

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“(2B) The Taxes Acts shall have effect as if section 56A of this Act applied in relation to any appeal to the Special Commissioners constituting proceedings in Northern Ireland—

- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and
- (b) with the omission of subsections (2) and (5) to (7).

(2C) An appeal shall lie to the House of Lords in accordance with section 42 of the Judicature (Northern Ireland) Act 1978(11) from a decision of the Court of Appeal in Northern Ireland on a case stated under regulation 22 of the General Commissioners Regulations or on an appeal under section 56A of this Act.”.

13. In section 98, in the Table the words “Section 51 of this Act” in the first column shall be omitted.

14. In section 100(1)(12), the words from “or a penalty” to “this Act” shall be omitted.

15. In section 100B(3)(12), for the words “section 56” there shall be substituted the words “any right to have a case stated under regulation 22 of the General Commissioners Regulations or any right of appeal under section 56A”.

16. In section 115, after subsection (4) there shall be added—

“(5) Nothing in this section applies to any notice or other document required or authorised by the General Commissioners Regulations or the Special Commissioners Regulations to be sent or delivered to, or served on, any person.”.

17. In section 118(1)—

(a) after the definition of “company” there shall be inserted the following definition—

““the General Commissioners Regulations” means the General Commissioners (Jurisdiction and Procedure) Regulations 1994,”

(b) after the definition of “return” there shall be inserted the following definition—

““the Special Commissioners Regulations” means the Special Commissioners (Jurisdiction and Procedure) Regulations 1994.”.

*Oil Taxation Act 1975 c. 22*

18. In Schedule 2, in the Table in paragraph 1(1)—

(a) the entries relating to sections 50(1) to (5), 51, 52 and 56 of the Taxes Management Act 1970 shall be omitted;

(b) for the entry relating to section 58(2) there shall be substituted the following entries—

“Section 58	(2B)	.....	—
	(2C)	.....	Omit the words “on a case stated under regulation 22 of the General Commissioners (Jurisdiction and Procedure)

(11) 1978 c. 23.

(12) Sections 100 to 100D were substituted for section 100 by section 167 of the Finance Act 1989.

(12) Sections 100 to 100D were substituted for section 100 by section 167 of the Finance Act 1989.

Regulations 1994  
or”.”;

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(c) the entry relating to section 98 of the Taxes Management Act 1970 shall be omitted.

19. In Schedule 5, in sub-paragraph (1) of paragraph 8—

- (a) in paragraph (a) of that sub-paragraph for the words from “a case for” to “in respect of” there shall be substituted the words “an appeal is made under section 56A of the Taxes Management Act 1970 (as applied by paragraph 1 of Schedule 2 to this Act) against”;
- (b) in paragraph (b) of that sub-paragraph—
  - (i) for the words “case so stated” there shall be substituted the words “appeal so made”;
  - (ii) for the words “that appeal” where they first occur there shall be substituted the words “the appeal under paragraph 5 above”.

*Inheritance Tax Act 1984 c. 51*

20. Sections 224(1) to (3), 245(1)(d) and 246 shall be omitted.

21. For section 225(13) there shall be substituted—

**“225 Appeals from Special Commissioners.**

(1) Any party to an appeal, if dissatisfied in point of law with the determination of that appeal by the Special Commissioners, may appeal against that determination to the High Court.

(2) The High Court shall hear and determine any question of law arising on an appeal under subsection (1) above and may reverse, affirm or vary the determination appealed against, or remit the matter to the Special Commissioners with the court’s opinion on it, or make such other order in relation to the matter as the court thinks fit.

(3) This section shall have effect—

- (a) in its application to Scotland, with the substitution of references to the Court of Session for references to the High Court; and
- (b) in its application to Northern Ireland, with the substitution of references to the Court of Appeal in Northern Ireland for references to the High Court.”.

22. For section 251 there shall be substituted—

**“251 Appeals against summary determination of penalties.**

(1) An appeal shall lie to the High Court or the Court of Session against the summary determination by the Special Commissioners of a penalty under regulation 24 of the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 in proceedings relating to inheritance tax.

(2) On such an appeal the Court may either confirm or reverse the determination of the Special Commissioners or reduce or increase the sum determined.”.

*Income and Corporation Taxes Act 1988 c. 1*

23. Section 705(4) shall be omitted.

24. After section 705 there shall be inserted—

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(13) Section 225 was amended by Part III of Schedule 1 to the Statute Law (Repeals) Act 1986 (c. 12).

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**“Statement of case by tribunal for opinion of High Court.**

**705A.**—(1) Immediately after the determination by the tribunal of an appeal re-heard by them under section 705 of this Act, the appellant or the Board, if dissatisfied with the determination as being erroneous in point of law, may declare his or their dissatisfaction to the tribunal.

(2) The appellant or the Board, as the case may be, having declared his or their dissatisfaction, may, within thirty days after the determination, by notice in writing require the tribunal to state and sign a case for the opinion of the High Court.

(3) The party requiring the case shall pay to the tribunal a fee of £25 for and in respect of the same, before he is entitled to have the case stated.

(4) The case shall set forth the facts and the determination of the tribunal, and the party requiring it shall transmit the case, when stated and signed, to the High Court, within thirty days after receiving the same.

(5) At or before the time when he transmits the case to the High Court, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.

(6) The High Court shall hear and determine any question of law arising on the case, and may reverse, affirm or amend the determination in respect of which the case has been stated, or remit the matter to the tribunal with the Court’s opinion on it, or make such other order in relation to the matter as the Court thinks fit.

(7) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

(8) Subject to subsection (9) below and to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords), an appeal shall, in England and Wales, lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords.

(9) No appeal shall lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934.

(10) Subject to subsection (11) below, where the determination of the tribunal is in respect of an assessment made in accordance with a notice under subsection (3) of section 703, then notwithstanding that a case has been required to be stated or is pending before the High Court in respect of the determination, tax shall be paid in accordance with the determination.

(11) If the amount charged by the assessment is altered by the order or judgment of the High Court, then—

- (a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court may allow; or
- (b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the Board issue to the other party a notice of the total amount payable in accordance with the order or judgment of that Court.

(12) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer (references in this section to the High Court being construed accordingly); and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.

### **Proceedings in Northern Ireland.**

**705B.**—(1) A case which is stated by the tribunal under section 705A in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts (as defined in section 118(1) of the Management Act<sup>(14)</sup> shall have effect as if that section applied in relation to such proceedings—

- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland;
- (b) with the omission of subsections (4), (5), (8) and (9) of that section.

(2) The procedure relating to the transmission of the case to, and the hearing and determination of the case by, the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction, and an appeal shall lie from the Court of Appeal to the House of Lords in accordance with section 42 of the Judicature (Northern Ireland) Act 1978.

(3) Where in proceedings in Northern Ireland an application is made for a case to be stated by the tribunal under this section, the case must be settled and sent to the applicant as soon after the application as is reasonably practicable.

(4) For the purposes of this section “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to the Management Act is in Northern Ireland.”.

### *Finance Act 1994 c. 9*

#### **25.** In Schedule 19—

- (a) in paragraph 16 for the words “Save as otherwise provided in the Taxes Acts” there shall be substituted the words “section 56B of this Act”;
- (b) in paragraph 17(1) the word “lawful” shall be omitted;
- (c) in paragraph 34(1) for the word “return” where it first occurs there shall be substituted the words “the Special Commissioners Regulations”.

### *Tribunals and Inquiries (Revenue Tribunals) Order 1959 (S.I.1959/452)(15)*

#### **26.**—(1) In regulation 2(1)—

- (a) for the words “and “Special Commissioners” have” there shall be substituted the word “has”;
- (b) the definition of “Income Tax Commissioners” shall be omitted;
- (c) the words from “the reference” to “modification” shall be omitted.

#### (2) In regulation 3(a)—

- (a) for the words “Income Tax Commissioners” there shall be substituted the words “General Commissioners”;
- (b) for the words from “on appeals to which” to “Finance Act, 1960” there shall be substituted the words “in relation to which the provisions of regulations 20 to 23 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 (statement of case for opinion of High Court etc.) apply”.

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(14) The definition of “the Taxes Act” in section 118(1) was amended by paragraph 32(d) of Schedule 8 to the Development Land Tax Act 1976 (c. 24), paragraph 8 of Schedule 7 to the Capital Gains Tax Act 1979 (c. 14), Schedule 31 to the Income and Corporation Taxes Act 1988, and paragraph 2(11)(b) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12).

(15) Amended by S.I. 1961/152.

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*Capital Gains Tax Regulations 1967 (S.I. 1967/149)(16)*

27. Regulations 6, 7, 8(6) and (8), 10(1) and (3), and 11(3) and (4) shall be omitted.

*Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711)(17)*

28. In regulation 8, after paragraph (4) there shall be inserted—

“(4A) On the hearing of an appeal before them, the Special Commissioners may allow the appellant to put forward any ground of appeal not specified in the notice of appeal and take it into account if satisfied that the omission was not wilful or unreasonable.

(4B) The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed.”.

29. For regulation 10 there shall be substituted—

**“Appeals from the Special Commissioners**

**10.—(1)** Any party to an appeal, if dissatisfied in point of law with the determination of that appeal by the Special Commissioners, may appeal against that determination to the High Court.

(2) The High Court shall hear and determine any question of law arising on an appeal under paragraph (1) above and may reverse, affirm or vary the determination of the Special Commissioners, or remit the matter to the Special Commissioners with the court’s opinion on it, or make such other order in relation to the matter as the court thinks fit.

(3) This regulation shall have effect—

- (a) in its application to Scotland, with the substitution of references to the Court of Session for references to the High Court; and
- (b) in its application to Northern Ireland, with the substitution of references to the Court of Appeal in Northern Ireland for references to the High Court.”.

**30.—(1)** The Table in Part I of the Schedule (which applies the provisions of the Taxes Management Act 1970 specified in the first column of that Table subject to any modification specified in the second column of that Table) shall be amended as follows.

(2) The entries relating to sections 50(3) to (6), 51(1) and (2), and 52(1) to (3) shall be omitted.

(3) For the entries relating to section 53 there shall be substituted—

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“53(1)	Before the word “Commissioners” insert “Special”.
53(2)	—”.

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(4) In the entry relating to section 98 the words “Section 51 of this Act;” shall be omitted.

**31.—(1)** Part II of the Schedule (which restates the provisions of the Taxes Management Act 1970 specified in Part I of the Schedule as modified where appropriate) shall be amended as follows.

(2) Sections 50(3) to (6), 51 and 52 shall be omitted.

(3) For section 53 (as modified) there shall be substituted—

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(16) Amended by Part VIII of Schedule 21 to the Finance Act 1969 (c. 32).  
(17) Amended by S.I. 1988/835, 1989/1301, 1991/724, 1992/3287 and 1993/3110.



**“53 Appeals against summary determination of penalties.**

(1) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, against the summary determination by the Special Commissioners of any penalty pursuant to regulations under section 56B of this Act.

(2) On any such appeal the court may either confirm or reverse the determination of the Commissioners or reduce or increase the sum determined.”.

(4) For the Table in section 98 (as modified) there shall be substituted the following Table—

“TABLE

1	2
Section 23 of this Act;	The Stamp Duty Reserve Tax Regulations 1986 (other than regulation 4).
Section 25(1), (2), (3), (4), (5), (8) and (9) of this Act;	
Section 26 of this Act;	
The Stamp Duty Reserve Tax Regulations 1986.”.	

*Lloyd’s Underwriters (Tax) Regulations 1989 (S.I. 1989/421)*

**32.** In regulation 9(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.

*Lloyd’s Underwriters (Tax) (1987-88) Regulations 1990 (S.I. 1990/627)*

**33.** In regulation 9(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.

*Lloyd’s Underwriters (Tax) (1988-89) Regulations 1991 (S.I. 1991/851)*

**34.** In regulation 7(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.

*Lloyd’s Underwriters (Tax) (1989-90) Regulations 1992 (S.I. 1992/511)*

**35.** In regulation 7(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.

*Lloyd’s Underwriters (Tax) (1990-91) Regulations 1993 (S.I. 1993/415)*

**36.** In regulation 7(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.

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*Income Tax (Employments) Regulations 1993 (S.I. 1993/744)*

**37.** In regulation 11(6) after the words “contained in” there shall be inserted the words “regulations 20 to 23 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 and”.

*Lloyd’s Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728)*

**38.** In regulation 7(4) for the words from “require” to “section 56” there shall be substituted the words “appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A”.