

Amendment	Page	Line
*77	69	22
*87	229	38
*88	230	19
*89	230	27
*90	230	28
*91	238	4
*92	238	43
*93	239	8
*94	239	27
*95	239	27

Mr Chancellor of the Exchequer

Amendment 77

Page 69, line 22 [Clause 115], leave out from ‘General’ to end of line 23 and insert

‘and Special Commissioners, appeals and other proceedings before the Commissioners and related matters’.

Amendment 87

Page 229, line 38 [Schedule 14], leave out sub-paragraphs (3) and (4).

Amendment 88

Page 230, line 19 [Schedule 14], leave out from beginning to ‘an’ in line 22.

Amendment 89

Page 230, line 27 [Schedule 14], leave out ‘sub-paragraph (2)’ and insert ‘this paragraph’.

Amendment 90

Page 230, line 28 [Schedule 14], at end insert—

‘() The right of appeal under this paragraph is in addition to any right of appeal conferred by regulations under paragraph 10 of Schedule 17 (general power to provide for appeals on points of law).’.

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
SCHEDULE 17

Amendment 91

Page 238, [Schedule 17], leave out lines 4 to 7 and insert—

‘General and Special Commissioners: application of general provisions

1 Part 1 of the Taxes Management Act 1970 (administration) has effect as if this Part of this Act were part of the Taxes Acts.’.

Amendment 92

Page 238, line 43 [Schedule 17], at end insert—

‘Proceedings brought out of time

(1) An appeal under this Part to the General or Special Commissioners may be brought out of time with the consent in writing of an officer of the Board or the Board.

(2) Consent shall be given if the officer or, as the case may be, the Board are satisfied—

(a) that there was a reasonable excuse for not bringing the appeal within the time limit, and

(b) that an application for consent was made without unreasonable delay.

(3) If the officer or, as the case may be, the Board are not so satisfied, they shall refer the matter for determination by the Commissioners.

(4) If there is a right to elect to bring the appeal before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under this paragraph is to be referred are the General Commissioners, unless the election has been made before the application is referred.’.

Amendment 93

Page 239, line 8 [Schedule 17], at end insert—

‘() The regulations may, in particular, include provision—

(a) enabling the Commissioners to join as a party to the proceedings a person who would not otherwise be a party;

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
SCHEDULE 17

(b) for requiring a party to the proceedings to provide information and make documents available for inspection by—

- (i) the Commissioners,
- (ii) any party to the proceedings, or
- (iii) an officer of the Board;

(c) for requiring persons to attend the hearing to give evidence and produce documents;

(d) as to evidence generally in relation to proceedings;

(e) enabling the Commissioners to review their decisions;

(f) for the imposition of penalties not exceeding an amount specified in the regulations;

(g) for the determination and recovery of penalties imposed by virtue of paragraph (f) and for appeals against such penalties.’.

Amendment 94

Page 239, line 27 [Schedule 17], at end insert—

() The regulations may—

(a) authorise or require the Commissioners, in circumstances specified in the regulations, to state a case for the opinion of a court;

(b) make provision as to the practice and procedure to be followed in connection with cases so stated;

(c) make provision in relation to cases so stated corresponding to any provision made by section 56 of the Taxes Management Act 1970 (c. 9) (statement of case for opinion of High Court) or by that section as modified in its application to Northern Ireland by section 58 of that Act.

() The regulations may—

(a) provide for an appeal to lie to a court on a question of law arising from a decision of the Commissioners;

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
SCHEDULE 17

(b) make provision as to the practice and procedure to be followed in connection with such appeals;

(c) make provision in relation to such appeals corresponding to any provision made by section 56A of the Taxes Management Act 1970 (c. 9) (appeals from the Special Commissioners) or by that section as modified in its application to Northern Ireland by section 58 of that Act.’.

Amendment 95

Page 239, line 27 [Schedule 17], at end insert—

‘Publication of reports of decisions

(1) The Lord Chancellor may make regulations authorising the Special Commissioners to publish reports of such of their decisions as they consider appropriate.

(2) The regulations shall provide that any report published that is not a report of proceedings heard in public must be in a form that so far as possible prevents the identification of any person whose affairs are dealt with in the report.

(3) No obligation of secrecy to which the Special Commissioners are subject prevents their publishing reports of their decisions in accordance with provision made by virtue of this paragraph.’.

EXPLANATORY NOTE

SUMMARY

1. These amendments makes changes to Schedule 17 to complete the scope of the schedule so that regulations can be made by the Lord Chancellor to deal with all matters relating to SDLT appeals. The amendments also ensure that proceedings brought out of time can be dealt with. Consequential amendments are made in clause 115 and schedule 14.
2. This amendment removes an unnecessary cross reference.
3. This amendment inserts a new sub-paragraph at the end of paragraph 6 of Schedule 14.

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
SCHEDULE 17

4. This amendment substitutes a new paragraph 1 of Schedule 17. It provides that Part 1 of the Taxes Management Act applies to stamp duty land tax.
5. This amendment provides vires powers which are based on those in section 56B(2) of the Taxes Management Act.
6. This amendment provides for a vires power equivalent to section 56D of the Taxes Management Act.
7. This amendment deletes sub-paragraphs (3) and (4) of paragraph 5 of Schedule 14 to the Bill.
8. This amendment inserts a new paragraph in to Schedule 17 which deals with appeals brought out of time .

DETAILS

9. These amendments:
 - Clarify that Schedule 17 is to make provision about appeals and proceedings before both the General and Special Commissioners.
 - Provide a general procedure for appeals brought out of time based on section 49 TMA, and remove rules about late appeals against penalties which are consequentially unnecessary
 - Provide for rights of appeal to higher courts and related proceedings, and remove references in Schedule 14 to appeals to courts as this is now consolidated in Schedule 17
 - Clarify that the right of appeal against a penalty provided by paragraph 6 of Schedule 14 is in addition to any right of appeal provided by regulations under Schedule 17
 - Clarify that Part 1 of TMA (administration) applies for both the General and Special Commissioners
 - Add powers to make regulations that match the existing regulations for the Commissioners.
 - Ensure that regulations can provide for the publication of decisions of the Special Commissioners on the same terms as they have been published for decisions on other taxes.

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
SCHEDULE 17

BACKGROUND NOTE

10. These amendments ensure that regulations made under Schedule 17 can follow the Taxes Management Act rules relating to commissioners proceedings and the Special Commissioners (Jurisdiction and Procedure) Regulations SI 1994/1811 and the General Commissioners (Jurisdiction and Procedure) Regulations (SI 1994/1812).
11. The intention is that in relation to appeals the taxpayer's rights, Commissioners rules procedure will be the same as for other taxes.
12. Decisions of the Special Commissioners on SDLT will be published in the same way as they are published for other taxes.