

2007 No. 3612

INCOME TAX

**The General Commissioners and Special Commissioners
(Jurisdiction and Procedure) (Amendment) Regulations 2007**

<i>Made</i> - - - -	<i>15th December 2007</i>
<i>Laid before Parliament</i>	<i>21st December 2007</i>
<i>Coming into force</i> - -	<i>28th January 2008</i>

The Lord Chancellor, with the consent of the Scottish Ministers, and after consultation with the Administrative Justice and Tribunals Council in accordance with section 8 of the Tribunals and Inquiries Act 1992(a), makes the following Regulations in exercise of the powers conferred by section 56B of the Taxes Management Act 1970(b).

Citation, commencement, and transitional

1. These Regulations may be cited as the General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2007 and shall come into force on 28th January 2008.

2. Regulation 6 applies to proceedings commenced on or after the date when these Regulations come into force.

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

3.—(1) The Special Commissioners (Jurisdiction and Procedure) Regulations 1994(c) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in the definition of proceedings omit the entry at (k) for any appeal to the Special Commissioners under regulation 14(4) of the Working Tax Regulations; and
- (b) omit the definition of Working Tax Regulations.

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

4.—(1) The General Commissioners (Jurisdiction and Procedure) Regulations 1994(d) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) 1992 c.53 as amended by paragraph 30 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c.15).
(b) 1970 c.9. Section 56B was inserted by paragraph 4 of Schedule 16 to the Finance (No.) Act 1992 (c.48).
(c) S.I. 1994/1811 as amended by regulation 3 of the General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2002 (S.I. 2002/2976).
(d) S.I. 1994/1812 as amended by regulation 8 of the General Commissioners and Special Commissioners (Jurisdiction and Procedure) (Amendment) Regulations 2002 (S.I. 2002/2976).

- (a) in the definition of proceedings omit the entry at (e) for any appeal to the General Commissioners under regulations 8(6) and 14(4) of the Working Tax Regulations; and
- (b) omit the definition of Working Tax Regulations.

5. After regulation 3 (listing and notice of hearing) insert—

“3A. General power to give directions

(1) A General Commissioner, before the hearing of any proceedings, and a Tribunal, at any time, may give directions to—

- (a) enable the parties to prepare for a hearing;
- (b) assist the Tribunal to determine the issues; or
- (c) ensure the just, expeditious and economical determination of the proceedings.

(2) Directions may be given on the initiative of a Tribunal or a General Commissioner or on the application of a party.

(3) An application by a party for directions, unless made during a hearing, must be made in writing to the Clerk.

(4) Unless the application is accompanied by the written consent of all parties, the Clerk must serve the application on any other party who might be affected by the directions, and that party must be given an opportunity to oppose the application.

(5) A party opposing an application must do so by notice in writing to the Clerk and any other party.

(6) When considering any objections a General Commissioner or the Tribunal may give the parties an opportunity to be heard.

3B. Preliminary hearing

(1) A General Commissioner may, on the application of a party or on the General Commissioner’s own initiative, hold a preliminary hearing to—

- (a) secure the just, expeditious and economical conduct of the proceedings;
- (b) ensure that the parties make all such admissions and agreements as ought reasonably to be made; and
- (c) determine any preliminary question of fact or law which appears to be in issue.

(2) The Clerk shall give the parties not less than 14 days’ notice of the preliminary hearing, unless—

- (a) the parties consent to shorter notice; or
- (b) the General Commissioner thinks it is in the interests of justice for the notice to be shorter.

(3) If the determination of the preliminary question substantially disposes of the proceedings, the Tribunal may, after hearing any representations from the parties, —

- (a) treat the preliminary hearing as the substantive hearing; and
- (b) make such order by way of disposing of the proceedings as necessary.”.

6. After regulation 24 (irregularities) insert—

“24A. Penalty for failure to comply with direction

(1) The Tribunal may impose a penalty against a party not exceeding £10,000 where the party fails to comply with any direction of a General Commissioner or Tribunal.

(2) Paragraph (1) does not apply to notices served under regulation 10.

(3) Where the Tribunal propose to impose a penalty against a party, it must allow that party an opportunity to make representations in writing before it imposes any penalty.

(4) Any penalty determined by the Tribunal under these Rules shall for all purposes be treated as if it were tax charged in an assessment and due and payable.”.

Signed on behalf of the Lord Chancellor

15th December 2007

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the General Commissioners (Jurisdiction and Procedure) Regulations 1994, the Special Commissioners (Jurisdiction and Procedure) Regulations 1994.

Regulations 3 and 4 remove references to the revoked Working Tax Credit (Payment by Employers) Regulations 2002 (the Working Tax Regulations) which have been revoked.

Regulations 5 and 6 amend the General Commissioners (Jurisdiction and Procedure) Regulations 1994 to provide the General Commissioners with powers to give directions, hold a preliminary hearing and impose penalties for non-compliance with directions. These changes are to enable the General Commissioners to manage cases more effectively and to bring them more in line with the similar regulations for Special Commissioner hearings.

An impact assessment has not been prepared for this instrument as it has no impact on businesses, charities or voluntary bodies.

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