



Rules of Procedure for the Processing of Appeals





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Appendices (A - G)



I. Introduction

1. The Finance (Tax Appeals) Act, 2015 (“the 2015 Act”) makes a number of changes to the legislation governing the hearing and determination of tax appeals, primarily the Taxes Consolidation Act, 1997 (as amended) (“the 1997 Act”). The 2015 Act envisages that the Appeal Commissioners (“the Commissioners”) may draw up rules of procedure with respect to any of their functions.
2. The purpose of this document is to set down such rules of procedure. To a large degree, these reflect the provisions of the 2015 Act. In so far as the legislation affords discretion in various matters to the Commissioners, this is reflected in the procedures also.
3. Certain aspects of these procedures may need to be adjusted in the light of experience of their operation. The Commissioners will keep these procedures under review on an ongoing basis and will, where required, make such adjustments as they believe necessary and appropriate.
4. The rules of procedure are intended to provide a general outline of the approach that will be followed by the Commissioners in dealing with appeals under the Tax Acts. However, each appeal must be considered and managed on a case by case basis, and the Commissioners will determine what steps are necessary and appropriate to ensure the fair and efficient determination of each appeal, having regard to all relevant facts and circumstances.
5. In carrying out their functions, the Commissioners are obliged to ensure that proceedings before them are accessible and fair, and must be conducted as expeditiously as possible. Also, the Commissioners are required to manage and conduct proceedings in a way that will meet the reasonable expectations of members of the public with regard to (a) the avoidance of undue formality, and (b) a flexible approach being adopted in respect of procedural matters.

Acceptance of Appeals

6. A taxpayer who wishes to make an appeal against a decision or assessment made by the Revenue Commissioners (“Revenue”), must submit a written notice of appeal to the Tax Appeals Commission (“the Commission”).
7. Taxpayers may submit an appeal electronically through the Commission’s website (www.taxappeals.ie). Alternatively, taxpayers may submit an appeal in writing using email or post. A form for this purpose is available on, and may be downloaded from, the Commission’s website.





8. The taxpayer must include in the notice of appeal all of the information detailed in Appendix A (**section 949I(2)** of the 1997 Act). Generally, speaking, a taxpayer will have 30 days to appeal a decision or assessment made by the Revenue Commissioners.
9. As soon as practicable after receipt of the notice of appeal, the Commission will send a copy of the notice of appeal, and any documentation appended thereto, to the Revenue Commissioners. The Revenue Commissioners will be advised that any objection to the acceptance of the appeal (on the grounds specified in **section 949L(1)** of the 1997 Act - see Appendix B) must be communicated to the Commission by notice in writing, stating their reason for the objection, no later than 30 days after the date on which the copy of the notice of appeal has been sent to them.
10. Any notice of objection received by the Commission from the Revenue Commissioners will be copied as soon as practicable to the Appellant or the Appellant's agent, who will be invited to respond in writing to Revenue's grounds of objection no later than 14 days after the date on which notice of the Revenue Commissioners' objection has been sent by the Commission.
11. Where no notice of objection has been received from the Revenue Commissioners within the 30 days allowed by statute or, alternatively, where a notice of objection has been received from the Revenue Commissioners and the Appellant has been afforded the opportunity to respond in writing to that notice of objection, the Commission will decide whether or not the appeal should be accepted.
12. A decision on whether or not an appeal should be accepted may be made by a member or members of staff of the Commission or may be made by a Commissioner. If the member or members of staff of the Commission are uncertain as to whether or not an appeal should be accepted, the decision will be made by a Commissioner.
13. A decision not to accept an appeal will only be made where the member or members of staff of the Commission or the Commissioner is satisfied that:-
 - (a) the appeal is not a valid appeal within the meaning of **section 949J(1) of the 1997 Act, or**
 - (b) the appeal is without substance or foundation, or
 - (c) where the appeal is a late appeal, the requirements listed in Appendix C (**section 949O** of the 1997 Act) have not been satisfied.
14. In deciding whether or not an appeal should be accepted, the member or members of staff of the Commission or the Commissioner will have regard to the following:-
 - 14.1 Whether the notice of appeal contains or has appended the information required by **section 949I** of the 1997 Act, namely-
 - (a) the name and address of the Appellant and, where relevant, of the person acting under the Appellant's authority in relation to the appeal;
 - (b) the PPS number or tax reference number, as appropriate, of the Appellant;



- (c) the appealable matter in respect of which the appeal is being made;
- (d) the grounds for the appeal, in sufficient detail for the Commissioners to be able to understand those grounds;
- (e) confirmation that any statutory preconditions to the bringing of an appeal have been satisfied;
- (f) a copy of the notification from the Revenue Commissioners in respect of the matters the subject of the appeal; and,
- (g) if the appeal is a late appeal, the reason why the Appellant was prevented from making the appeal within the time allowed by statute.

14.2 Any notice of objection received from the Revenue Commissioners and the grounds of objection detailed therein.

14.3 Any response to the Revenue Commissioners' notice of objection received from the Appellant or the Appellant's agent.

15. In order to determine whether or not a late appeal should be accepted, the Commissioners may make such enquiries as they consider necessary or appropriate, and may hold a hearing for the purposes of so doing.

16. A decision not to accept an appeal will be notified in writing to the Appellant or the Appellant's agent and to the Revenue Commissioners, and the notification will specify the reason(s) why the appeal has not been accepted.

17. The Commissioners may declare that a decision not to accept an appeal is a final decision and, where they do so, that decision shall be final and conclusive.

II. Statement of Case

18. When an appeal has been accepted, the Commissioners may direct the Appellant and/or the Revenue Commissioners to furnish it with such information (a "Statement of Case") relating to the matter under appeal as may be specified in the direction.

19. Where such a direction is given, it will specify the time within which the Statement of Case is to be furnished. The time allowed shall normally be a period of [3 - 6 weeks], but this period may be abridged or extended where the Commissioners think it appropriate or necessary to do so. In addition, the Commissioners may direct that the Statements of Case from the parties to an appeal are provided in a particular sequence.

20. The information sought by way of Statement of Case may include:-

- (a) an outline of the relevant facts;
- (b) a list of, and copies of, any written documents upon which the party intends to rely or which the party intends to produce in the proceedings;



- (c) brief details of any witness who may be called upon by the party to give evidence in the proceedings;
 - (d) details of the statutory provisions to be relied upon;
 - (e) details of the case-law that will be relied upon;
 - (f) whether the party assents to documents being furnished and notices given by e-mail or other electronic means;
 - (g) whether the party assents to the appeal being determined without a hearing;
 - (h) the party's estimate of the likely duration of a hearing;
 - (i) whether the party wishes the hearing, or a specified part thereof, to be heard *in camera*; and,
 - (j) whether the party considers that the matter under appeal is one that could be settled by way of an agreement with the other party.
21. A party's Statement of Case (including all documents attached thereto) must be provided to the Commission within the time period specified. The party furnishing the Statement of Case to the Commission must at the same time furnish the other party with a copy of the Statement of Case and any attached documents, and must confirm in writing to the Commission that this has been done.

III. Case Management Conference

22. The Act includes a number of provisions aimed at assisting the expeditious and fair completion of proceedings, including the right for the Commissioners to direct that a meeting, known as a case management conference, be held to help progress a case. Where such a conference is arranged, the Commissioner will normally fix a date and time for an initial case management conference following the receipt of the Statement of Case, and this will be notified to the parties not less than 14 days prior to the time and date of the conference.
23. The Commissioners may hold such further case management conferences as appear to them necessary or desirable with the aim of securing the completion of the proceedings in a fair and expeditious manner.
24. The Commissioners will request the parties to the appeal to notify them in writing not later than 7 days before the date fixed for a conference of any application for directions that the party intends to make, including a brief statement of the grounds on which the party will argue that such directions are necessary and appropriate for the fair and efficient disposal of the appeal.
25. A party that notifies the Commissioners of an intention to apply for a direction or directions shall at the same time furnish the other party with a copy of such notification, and shall confirm in writing to the Commission that this has been done.



26. Where the Commissioners think it appropriate, and where the parties are in agreement, the Commissioners may permit the initial conference and any subsequent conference to be conducted by means of a suitable telecommunications link, without the need for the parties to appear in person.

IV. Directions

27. The Commissioners may at any time in the course of an appeal (including at or subsequent to a case management conference) give the parties such directions relating to the conduct or disposal of the appeal as they believe necessary or appropriate. Examples of such directions are outlined at Appendix D.
28. Any direction made by the Commissioners will be confirmed by means of a written notice of the direction to the parties and any other person affected thereby, and the written notice will specify the time allowed to comply with the direction.
29. Any party who contends that a direction ought not to have been given by the Commissioners, or that a direction ought to be amended, may apply to the Commissioners for a direction to set aside, suspend or amend a given direction. Any such application must be made in writing to the Commissioners and copied to the other party or parties to the appeal, and shall be made no later than 14 days after written notice of the direction has been given by the Commissioners. The written notice of the application shall specify the grounds on which the party contends that the direction should be set aside or suspended or amended.
30. Where a party has failed to comply to the Commissioners' satisfaction with a direction given by them relating to the conduct or disposal of an appeal, the Commissioners may dismiss the appeal in accordance with the provisions of **section 949AV** of the 1997 Act.

V. Adjudication without a hearing

31. Where the Commissioners think it appropriate to adjudicate on a matter under appeal without a hearing, they will notify the parties in writing of their intention to so adjudicate.
32. Where, within 21 days of such notification, neither party has requested in writing that a hearing be held prior to adjudication, the Commissioners may adjudicate on the matter without holding a hearing.





VI. Appeals raising common or related issues

33. Where cases arise in which the Commissioners wish to have regard to a previous determination or determinations made by them in respect of an appeal that raised common or related issues, and/or to determine the new appeal in light of the previous determination without holding a hearing, they must:-
- (a) send a copy of any relevant previous determination(s) (appropriately redacted where the previous appeal was heard wholly or partly *in camera*) to the parties, and
 - (b) request the parties to state in writing within 21 days whether they object to the Commissioners having regard to the previous determination(s) and/or whether they wish the Commissioners to hold a hearing.
34. A party objecting to the Commissioners' proposed course of action must set out in writing the grounds for such objection.
35. In deciding whether to have regard to a previous determination or determinations made by them in respect of an appeal that raised common or related issues, and/or to determine the new appeal in light of the previous determination without holding a hearing, the Commissioners will have regard to any objections raised by the parties and the reasons advanced for same, but will not be bound by same.

VII. Hearing of appeals

36. The Commissioners shall fix the time and place for the hearing of an appeal, which shall, save where the circumstances otherwise require, be notified to the parties not less than 14 days prior to the time and date so fixed. You, or your agent, must attend a hearing unless excused by a Commissioner.
37. Every hearing of an appeal will be heard in public, unless:-
- (a) the Commissioners have given a direction pursuant to **section 949Y(2)** of the 1997 Act that the appeal or a specified part thereof should be heard *in camera*, or
 - (b) the statement of case records that the Appellant wishes the appeal or a specified part thereof to be held *in camera*, or
 - (c) the Commissioners have acceded to an application by an Appellant who has applied pursuant to **section 949Y(3)(a)** of the 1997 Act for a direction that the appeal or a specified part thereof should be heard *in camera*.
38. The hearing of an appeal will be conducted in accordance with the provisions set out at Appendix E (**sections 949X to 949AF** of the 1997 Act inclusive).



VIII. Determinations

39. The Commissioners will determine an appeal as soon as practicable after the completion of their adjudication on that appeal and will, whenever possible, advise the parties after the conclusion of a hearing of how long it is likely to take for the appeal to be determined.
40. The Commissioners will, within 21 days of their determining the appeal, notify the parties in writing of their determination. The notification will comprise the following:
- (a) the determination,
 - (b) a statement of the Commissioners' material findings of fact,
 - (c) a statement of the reasons for the determination,
 - (d) the name of the appellant, and
 - (e) the date on which the determination was made.

The Commissioners will also advise the parties of the time within which, and the manner in which, any right of appeal against the determination by way of case stated to the High Court may be exercised.

41. The Commissioners will publish a report of the determination on the website of the Commission within 90 days of the determination being notified to the parties in writing in accordance with the provisions of **section 949AJ(5)** of the 1997 Act.

IX. Cases Stated

42. Except where a provision of the Acts provides that a determination of the Commissioners is to be final and conclusive, a party who is dissatisfied with a determination of the Commissioners as being erroneous on a point of law may by notice in writing require the Commissioners to state and sign a Case Stated for the Opinion of the High Court.
43. Such written notice must be given to the Commissioners, and copied to any other party to the appeal, no later than 21 days from the date on which the determination has been notified to the parties, and must specify the particular respect in which the determination is alleged to be erroneous in law.





44. On receipt of such written notice, the Commissioners will prepare a draft Case Stated as soon as practicable which contains the following:
- (i) the Commissioners' material findings of fact,
 - (ii) an outline of the arguments made by the parties,
 - (iii) the case law relied on by the parties,
 - (iv) the Commissioners determination and the reason for the determination, and
 - (v) the point of law on which the opinion of the High Court is sought.

The Commissioners will furnish the draft to the parties with a notice indicating that they may make representations in writing in relation to the draft within a period of 21 days. Any party making such representations must furnish a copy of same to every other party to the appeal.

45. Having had regard to any representations received from the parties, but without being bound thereby, the Commissioners shall complete and sign the Case Stated as soon as practicable, but in any event no later than three months from the date on which the dissatisfied party requested the Commissioners to state and sign the Case Stated. The completed and signed Case Stated shall forthwith be sent to the parties.
46. Where the High Court sends the case stated back to the Commissioners for amendment, the Commissioners will amend the case stated accordingly.

X. Transitional arrangements

47. Appeals that are already in being immediately prior to the commencement date (21 March 2016) will be heard and determined in accordance with the transitional provisions contained in the 2015 Act.
48. The general rule applying to such appeals (as set out in **section 27(2)** of the 2015 Act) is that, where one or more procedural steps under the old appeal process remain to be taken before 21 March 2016, the analogous steps under the new appeal process will be taken in place of those that remain under the old process.
49. For any appeal applications made on or after 21 March 2016, the new arrangements for the processing of such appeals will apply in their entirety (**section 23** of the 2015 Act).





50. A number of special arrangements will apply in specific circumstances (appeals against refusals, late appeals and cases where hearings have begun prior to 21 March 2016) and these will be processed as set out in the following paragraphs.

Appeals against refusals

51. In circumstances where, prior to 21 March 2016 :

- an appeal application has been refused by the Revenue Commissioners, and
- the person seeking to make the appeal has not appealed against the refusal under section 933(1)(c) of the 1997 Act, and
- the 15 days allowed by that section for the applicant to appeal against the refusal have not yet expired,

then, while any of the 15 days remain, to the applicant may appeal the refusal to the Commissioners and, where the person does so in writing to the Commissioners, the process outlined in section 933(1)(d) of the 1997 Act will apply (see Appendix F) until the Commissioners have decided to accept or refuse the appeal.

52. Where an appeal application has not been refused by the Revenue Commissioners under section 933(1)(b) of the 1997 Act or where the Commissioners have decided to allow an appeal against a decision of the Revenue Commissioners under section 933(1)(d), the appeal will be processed in accordance with section 27(2) of the 2015 Act, as summarised in paragraph [48] above.

Late appeals

53. Similar transition arrangements to the above will also apply in relation to late appeals and the Revenue Commissioners' refusal to accept such appeals.

54. In circumstances where, prior to 21 March 2016:

- a late appeal application under section 933(7)(c) or (f) of the 1997 Act has been refused by the Revenue Commissioners, and



- the person seeking to make the appeal has not appealed against the refusal under the above sections, and
- the 15 days allowed by [those sections] for the applicant to appeal against the refusal have not expired on or before the commencement date,

then, while any of the 15 days remain, to the applicant may appeal the refusal to the Commissioners and, where the person does so in writing to the Commissioners, the process detailed in section 9490 of the 1997 Act (see Appendix G) will apply until the Commissioners have decided to accept or refuse the appeal.

- 55.** Where the Revenue Commissioners has refused to accept the late appeal and the refusal has been appealed to the Commissioners before 21 March 2016, but the Commissioners have not yet decided whether or not to accept the late appeal, then the new process detailed in Appendix G will apply.
- 56.** Where a late appeal application has not been refused by the Revenue Commissioners under section 933(7)(b) or (e) of the 1997 Act, or where the Commissioners have decided to allow an appeal against a decision of the Revenue Commissioners under section 933(7)(c) or (f), the appeal will subsequently be handled in accordance with section 27(2) of the 2015 Act as summarised in paragraph [47] above.

Treatment of existing appeals

- 57.** As indicated in paragraph [48] above, the general rule that will apply to existing appeal cases under section 27(2) of the 2015 Act is that, where one or more procedural steps under the old appeal process remain to be taken before 21 March 2016, the analogous steps under the new appeal process will be taken in place of those that remain under the old process. For any appeal applications made on or after 21 March 2016, the new arrangements for processing of such appeals will apply in their entirety (**section 23** of the 2015 Act).
- 58.** However, there are exceptions to the general rule which will apply where the hearing of an appeal has begun before 21 March 2016.
- 59.** Where, prior to 21 March 2016,
- a hearing has commenced but is not completed,
 - a hearing is completed but a determination has not been made, or
 - a determination has been made but the 10-day period within which the appellant may give notice requesting a rehearing of the appeal by a Circuit Court Judge has not expired,





an appellant may, subsequent to the determination of the appeal by the Commissioners, request the rehearing of the appeal by a Circuit Court Judge under the old appeal process.

60. Where the hearing of an existing appeal has not begun before 21 March 2016, the appellant will not have the right to request a rehearing by a Circuit Court Judge under the old appeal process.

61. Where, prior to 21 March 2016:

- a hearing has commenced but is not completed, or
- a hearing is completed but a determination has not been made,

and where the hearing was conducted by a Commissioner who no longer holds office, then the appeal will either be reheard afresh, or alternatively, be adjudicated on without a hearing by another Commissioner. The decision on which option to take will be a matter for the discretion of the Commissioners. Once this step is completed, the next analogous step on the new appeals process will apply to the appeal.

Cases stated that have not been completed and signed.

62. The general transitional rule applies in relation to appeals by way of case stated to the High Court that have been requested by a party but not completed and signed as of 21 March 2016 because the Commissioner who determined the appeal no longer holds office. In such circumstances, the appeal will continue under the new appeals process and the case stated may be completed and signed by a serving Commissioner. However, there are certain steps as set out below that will first be taken by the Commissioners.

63. Where a case stated has not been completed and signed before 21 March 2016, the Commissioners will by notice in writing request the parties to the appeal to state [within 6 weeks of the notice] whether they wish the Commissioners to rehear the appeal or to proceed with the completion of the case stated. Where both of the parties elect for one or other option, that option will be taken by the Commissioners.

64. Where, within the aforesaid [6 weeks], both parties have not stated the same preference for one or other option, and, before the commencement date, the draft case stated was to have





been agreed by the parties but this had not happened, then the Commissioners will, as soon as practicable request the parties by notice in writing, within a time period specified in that notice, to seek to agree the terms of a draft case stated and to submit these to the Commissioners. In the event that the parties do not agree the terms of such a draft and submit it within the period specified, the Commissioners will complete the case stated and sign it, and the notice shall advise the parties accordingly.

65. Where the terms of a draft case stated have been agreed by the parties and submitted to the Commissioners, the Commissioners will complete the case stated and sign it but may modify the draft as they see fit in the process.
66. The party that has requested the case stated must transmit the signed case stated to the High Court.
67. The High Court may order that the appeal be reheard by the Commissioners.

XI. Communication by electronic means

68. Any document or notice in writing required to be given or furnished in accordance with these systems and procedures may, unless a party objects or the Commissioners otherwise direct, be given or furnished to a party or to the Commissioners by e-mail or by such other electronic means as the Commissioners may from time to time approve.



Information that must be specified in a notice of appeal

Section 949I(2) of the TCA 1997 as inserted by section 34 of the 2015 Act provides as follows:

(2) A notice of appeal shall specify—

(a) the name and address of the appellant and, if relevant, of the person acting under the appellant’s authority in relation to the appeal,

(b) in the case of an appellant who is an individual, his or her personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) or, in the case of any other person, whichever of the numbers in respect of the person specified in paragraphs (b) and (c) of the definition of ‘tax reference number’ in section 885(1) is appropriate,

(c) the appealable matter in respect of which the appeal is being made,

(d) the grounds for the appeal in sufficient detail for the Appeal Commissioners to be able to understand those grounds, and

(e) any other matters that, for the time being, are stipulated by the Appeal Commissioners for the purposes of this subsection.

(3) Where the provisions of the Acts relevant to the appeal concerned





require conditions specified in those provisions to be satisfied before an appeal may be made, a notice of appeal shall state whether those conditions have been satisfied.

(4) Where an appeal is a late appeal, the notice of appeal shall state the reason the appellant was prevented from making the appeal within the period specified by the Acts for doing so.

(5) A copy of the notification that was received from the Revenue Commissioners (that is to say, the notification in respect of the matters the subject of the appeal) shall be appended to a notice of appeal.

(6) A party shall not be entitled to rely, during the proceedings, on any ground of appeal that is not specified in the notice of appeal unless the Appeal Commissioners are satisfied that the ground could not reasonably have been stated in the notice.



Grounds for Revenue to object to the making of an appeal

Section 949L(1) of the 1997 Act as inserted by section 34 of the 2015 Act provides as follows:

949L.

(1) Where the Revenue Commissioners consider that—

(a) an appeal is not a valid appeal, or

(b) the appellant has not complied with the requirements of section

9490,

they may send to the Appeal Commissioners a written notice of objection to the making of the appeal and that notice shall state the reason for their objection.

In relation to section 949L(1)(a) above, section 949J(1) as inserted by section 34 of the 2015 Act provides as follows:

949J.

(1) For the purposes of this Part, an appeal shall be a valid appeal if—





- (a) it is made in relation to an appealable matter, and
- (b) any conditions that are required (by the provisions of the Acts relevant to the appeal concerned) to be satisfied, before an appeal may be made, are satisfied before it is made.



Grounds for accepting a late appeal

Section 9490 of the 1997 Act as inserted by section 34 of the 2015 Act provides as follows:

9490.

(1) The Appeal Commissioners may accept a late appeal where—

(a) they are satisfied that—

(i) the appellant was prevented by absence, sickness or other reasonable cause from making the appeal within the period specified by the Acts for the making of that appeal, and

(ii) the appeal is made thereafter without unreasonable delay, and

(b) the appeal is made within a period of 12 months after the end of the period specified by the Acts for the making of that appeal.

(2) Notwithstanding the period specified in paragraph (b) of subsection (1) for the making of an appeal, the Appeal Commissioners may accept an appeal made after the end of that period where paragraph (a) of that subsection applies and—

(a) any return that was required to be delivered to the Revenue Commissioners under the Acts has been so delivered, and

(b) the requirement in subsection (3)(a) or (b) (or both as the case may be) has been complied with.



(3) Each of the following is a requirement mentioned in subsection (2) (b)—

(a) where, in the opinion of the Appeal Commissioners, the return referred to in subsection (2)(a) is insufficient to enable the appeal to be determined, such other information as, in the opinion of the Appeal Commissioners, would enable the appeal to be determined by them without undue delay has been provided, and

(b) where an appeal is made against an assessment, any tax charged by the assessment has been paid together with any interest on that tax chargeable under—

(i) section 1080,

(ii) section 159D of the Stamp Duties Consolidation Act 1999,

(iii) section 103 of the Finance Act 2001,

(iv) section 51 of the Capital Acquisitions Tax Consolidation Act 2003,

(v) section 114 of the Value-Added Tax Consolidation Act 2010, or

(vi) section 149 of the Finance (Local Property Tax) Act 2012, as the case may be, at the time the appeal is made.

(4) For the purpose of deciding whether to accept a late appeal, the Appeal Commissioners may make such enquiries as they consider necessary or appropriate and may do so by holding a hearing.

(5) Nothing in this section derogates from the functions of the Appeal Commissioners under section 949N.



Examples of directions that may be given by the Commissioners

- (a)** any of the directions permitted by section 949E;
- (b)** a direction pursuant to section 949F joining an additional party to the appeal;
- (c)** a direction pursuant to section 949W staying the appeal proceedings for a fixed period;
- (d)** a direction that the parties agree and submit to the Appeal Commissioners a Statement of Agreed Facts;
- (e)** a direction that the parties agree and submit to the Appeal Commissioners a Book of Core Documents;
- (f)** a direction that the parties agree and submit to the Appeal Commissioners a Book of Authorities containing all legislation, cases and materials to be relied on for the appeal;
- (g)** a direction that the parties prepare, exchange and furnish to the Appeal Commissioners a statement of the evidence intended to be given by any witness intended to be called at the hearing of the appeal;
- (h)** where expert evidence of a technical or scientific nature is likely to be adduced by the parties, a direction that any experts intended to be called by the parties to give evidence at the hearing of the appeal meet in advance of the hearing and prepare an agreed statement detailing those areas in which the experts are in agreement and those areas on which the experts differ; and,
- (i)** a direction that the parties (or one party where appropriate) prepare, exchange and furnish to the Appeal Commissioners no later than 14 days prior to the date fixed for the hearing of the appeal a written outline of the arguments to be advanced at the hearing of the appeal.



Provisions of the Finance (Tax Appeals) Act 2015 that relate to the hearing of appeals

Time and place for hearing

949X.

(1) The Appeal Commissioners shall from time to time appoint times and places for the hearing of appeals and shall give written notice of such times and places to the parties.

(2) The Appeal Commissioners may adjourn a hearing for such a period as they think fit.

Exclusion from hearings

949Z.

(1) The Appeal Commissioners may exclude from a hearing, or part of a hearing, any person—



- (a) whose conduct the Appeal Commissioners consider is disrupting or is likely to disrupt the hearing,
- (b) whose presence the Appeal Commissioners consider is likely to prevent another person from giving evidence freely,
- (c) whose attendance at the hearing would defeat the purpose of that hearing, or
- (d) who is under the age of 18 years.

(2) The Appeal Commissioners may exclude a witness from a hearing until the witness is required to give evidence.

(3) The Appeal Commissioners may give a direction under section 949E as to the particular means to be used to exclude a person from a hearing, or part of a hearing.

Parties' attendance at hearings

949AA.

(1) An appellant shall attend any hearing unless the Appeal Commissioners excuse the appellant from attendance.

(2) Where an appellant, or a person acting under the appellant's authority, fails to attend a hearing at the time and place appointed for the hearing, the appeal shall, subject to subsection (3), be treated as if it



had been withdrawn.

(3) Notwithstanding subsection (2), an appeal shall not be treated as if it had been withdrawn where, on an application in writing having been made to them after the time appointed for a hearing, the Appeal Commissioners, are satisfied that—

- (a) owing to absence, illness or other reasonable cause, the appellant was prevented from attending the hearing, and
- (b) the application was made thereafter without unreasonable delay.

(4) A Revenue officer may attend any hearing and shall be entitled—

- (a) to be present during the whole of any hearing and at the determination of the appeal, and
- (b) to give evidence or reasons in support of an assessment or the other appealable matter concerned.

(5) Where it appears to a Revenue officer that an appellant ought to be charged in an amount exceeding the amount contained in an assessment that is under appeal, nothing in subsection (4) shall preclude the officer from giving evidence or reasons in support of such a higher amount.

(6) Where the Appeal Commissioners give a direction under section 949F making a person referred to in that section a party to an appeal, that person shall not be entitled, without the consent of the other parties to the appeal—



(a) in the case of a hearing, none of which relates to the matter affecting the liability to tax of that person ('the liability concerned'), to attend any part of that hearing, or

(b) in the case of a hearing, part of which relates to the liability concerned and part of which does not so relate, to attend the latter part.

Parties' representatives

949AB.

(1) The Appeal Commissioners shall hear any barrister or solicitor, or any person who is a member of a professional body (within the meaning of section 851A(1)), who appears on behalf of a party.

(2) Notwithstanding that a person appearing on behalf of an appellant does not fall within subsection (1), the Appeal Commissioners may hear such a person if they are satisfied that it is appropriate to do so.

Evidence

949AC.

The Appeal Commissioners may—

(a) allow evidence to be given orally or in writing,

(b) admit evidence whether or not the evidence would be admissible in proceedings in a court in the State, or

(c) exclude evidence that would otherwise be admissible where—

(i) the evidence was not provided within the time allowed by a direction,



- (ii) the evidence was provided in a manner that did not comply with a direction, or
- (iii) they consider that it would be unfair to admit the evidence.

Oath

949AD.

(1) The Appeal Commissioners may require any person who gives evidence to swear an oath in relation to the evidence.

(2) Where the Appeal Commissioners administer an oath, they shall inform the person swearing the oath that the giving of false evidence may be punishable under section 1066.

Summoning and examination of witnesses

949AE.

(1) The Appeal Commissioners may summon any person to appear before them to be examined where they consider such a person to be in a position to give evidence relating to a matter under appeal.

(2) A summons under subsection (1) shall—

(a) unless the person being summoned consents to a shorter period, be sent to that person not less than 21 days before the date of a hearing,

(b) inform the person being summoned of his or her entitlement to apply to the Appeal Commissioners to vary or set aside the summons if he or she did not have an opportunity to object to it before it was issued, and





(c) state the consequences, under section 949AU, of failure to comply with the summons.

(3) The Appeal Commissioners may limit the number of witnesses whose evidence a party may put forward.

Oral determinations

949AF.

The Appeal Commissioners may, at the conclusion of a hearing, make the determination referred to in section 949AJ orally but such a determination shall be reduced to writing thereafter and that section shall apply accordingly.



Process to be followed by the Commissioners in cases where Section 933(1)(d) of the Taxes Consolidation act 1997 as amended applies as part of the new appeal process

933 (1)

(d) On receipt of an application under paragraph (c), the Appeal Commissioners shall request the inspector or other officer to furnish them with a copy of the notice issued to the person under paragraph (b) and, on receipt of the copy of the notice, they shall as soon as possible—

(i) refuse the application for an appeal by giving notice in writing to the applicant specifying the grounds for their refusal,

(ii) allow the application for an appeal and give notice in writing accordingly to both the applicant and the inspector or other officer, or

(iii) notify in writing both the applicant and the inspector or other officer that they have decided to arrange a hearing at such time and place specified in the notice to enable them determine whether or not to allow the application for an appeal.



Section 9490, as inserted by section 34 of the 2015 Act, sets out the procedure to be followed by the Commissioners in dealing with late appeals and provides as follows

Late appeals

9490.

(1) The Appeal Commissioners may accept a late appeal where—

(a) they are satisfied that—

(i) the appellant was prevented by absence, sickness or other reasonable cause from making the appeal within the period specified by the Acts for the making of that appeal, and

(ii) the appeal is made thereafter without unreasonable delay,

and

(b) the appeal is made within a period of 12 months after the end of the period specified by the Acts for the making of that appeal.

(2) Notwithstanding the period specified in paragraph (b) of subsection (1) for the making of an appeal, the Appeal Commissioners may accept an appeal made after the end of that period where paragraph (a) of that subsection applies and—

(a) any return that was required to be delivered to the Revenue Commissioners under the Acts has been so delivered, and

(b) the requirement in subsection (3)(a) or (b) (or both as the case may

be) has been complied with.





(3) Each of the following is a requirement mentioned in subsection (2) (b)—

(a) where, in the opinion of the Appeal Commissioners, the return referred to in subsection (2)(a) is insufficient to enable the appeal to be determined, such other information as, in the opinion of the Appeal Commissioners, would enable the appeal to be determined by them without undue delay has been provided, and

(b) where an appeal is made against an assessment, any tax charged by the assessment has been paid together with any interest on that tax chargeable under—

(i) section 1080,

(ii) section 159D of the Stamp Duties Consolidation Act 1999,

(iii) section 103 of the Finance Act 2001,

(iv) section 51 of the Capital Acquisitions Tax Consolidation Act 2003,

(v) section 114 of the Value-Added Tax Consolidation Act 2010, or

(vi) section 149 of the Finance (Local Property Tax) Act 2012,

as the case may be, at the time the appeal is made.

(4) For the purpose of deciding whether to accept a late appeal, the Appeal Commissioners may make such enquiries as they consider necessary or appropriate and may do so by holding a hearing.

(5) Nothing in this section derogates from the functions of the Appeal Commissioners under section 949N.



