
STATUTORY INSTRUMENTS

1993 No. 355 (S.39)

COUNCIL TAX, SCOTLAND

The Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993

<i>Made</i>	- - - -	<i>19th February 1993</i>
<i>Laid before Parliament</i>		<i>4th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 81 (3), 82 (1) and (2), 87, 113 (1) and (2) and 116 (1) of the Local Government Finance Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals as required by section 8 (1) of the Tribunals and Inquiries Act 1992⁽²⁾, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993 and shall come into force on 1st April 1993.

Interpretation

2. In these Regulations—

“the Act” means the Local Government Finance Act 1992;

“the Administration Regulations” means the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992⁽³⁾;

“assessor”, in relation to a list, means the local assessor charged with its maintenance under section 84(1) of the Act;

(1) 1992 c. 14; section 116 (1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.
(2) 1992 c. 53.
(3) S.I. 1992/1332, as amended by S.I. 1992/3290.

“levying authority”, in relation to a dwelling, means the levying authority in whose area the dwelling is situated;

“list” means a valuation list compiled under section 84 of the Act;

“local valuation panel” means the panel for an area constituted in accordance with the Valuation (Local Panels and Appeal Committees Model Scheme) (Scotland) Order 1975(4);

“proposal” means a proposal for the alteration of a list;

“the relevant local valuation panel”, in relation to an appeal, means the local valuation panel for the area of the levying authority—

- (a) whose decision or calculation is the subject of the appeal; or
- (b) in whose area is situated the dwelling which is the subject of the appeal.

PART II

ALTERATION OF VALUATION LISTS

Interpretation of Part II

3.—(1) In this Part—

“alteration” means alteration of a list in relation to a particular dwelling, and “alter” shall be construed accordingly;

“company” and “subsidiary” have the same meanings as in sections 736 and 736A of the Companies Act 1985(5);

“demand notice” means a notice served under Part V of the Administration Regulations;

“interested person”, in relation to a proposal, means a person who is or was—

- (a) the owner; or
- (b) a taxpayer,

as regards the dwelling and any part of the period to which the proposal relates;

“proposer”, in relation to a proposal, means—

- (a) the person who made the proposal; and
- (b) any person who is, in terms of regulation 11(3) or 12(2), to be treated as having made the proposal;

“secretary”, in relation to a local valuation panel, means the secretary or assistant secretary to that panel;

“taxpayer”, in relation to a dwelling and a day, means—

- (a) a person who is liable (whether solely or jointly and severally) to pay council tax in respect of the dwelling and the day; or
- (b) a person who would be so liable if the dwelling were not—
 - (i) an exempt dwelling; or
 - (ii) a dwelling in respect of which the amount or amounts set under section 93 of the Act for the financial year in which the day falls were nil.

(2) For the purposes of this Part, an appeal decision is a “relevant decision” in respect of a dwelling if—

(4) S.I. 1975/1220.

(5) 1985 c. 6; section 736 was substituted, and section 736A inserted, by the Companies Act 1989 (c. 40), section 144.

- (a) it was made by—
 - (i) a valuation appeal committee for the area in which the dwelling is situated;
 - (ii) the Court of Session; or
 - (iii) the House of Lords; and
- (b) either because of a general principle stated in it or because it relates to a comparable dwelling, the decision provides reasonable grounds for contending that the valuation band shown on the list in respect of the dwelling is not the one which should be shown.

Restrictions on alteration of valuation bands

4.—(1) No alteration shall be made of a valuation band shown in the list as applicable to any dwelling unless—

- (a) since the valuation band was first shown in the list as applicable to the dwelling—
 - (i) there has been a material increase in the value of the dwelling and it, or any part of it, has subsequently been sold; or
 - (ii) subject to paragraph (2), there has been a material reduction in the value of the dwelling;
- (b) the local assessor is satisfied that—
 - (i) a different valuation band should have been determined by him as applicable to the dwelling; or
 - (ii) the valuation band shown in the list is not that determined by him as so applicable;
- (c) the assessor has, under Schedule 5 to the Act, added, amended or deleted an apportionment note relating to any lands and heritages included in the valuation roll; or
- (d) there has been a successful appeal under the Act against the valuation band shown in the list.

(2) Where a material reduction in the value of a dwelling is caused wholly by the demolition of any part of the dwelling, the valuation band shall not be altered if—

- (a) the works of demolition are part of, or connected with, a building, engineering or other operation which—
 - (i) has been carried out;
 - (ii) is in progress; or
 - (iii) is proposed to be carried out,in relation to the dwelling; and
- (b) the market value of the dwelling immediately before the commencement of the relevant works is less than it would have been had the dwelling then been in the same physical state as it is in immediately after completion of those works.

(3) In paragraph (2)(b)—

“market value” means the amount which the dwelling might reasonably have been expected to realise if it had been sold in the open market by a willing seller; and

“relevant works” means the works of demolition and the building, engineering or other operation of which those works of demolition are part or with which they are connected.

Circumstances and periods in which proposals may be made

5.—(1) Subject to paragraphs (2), (7), (8) and (10), an interested person may at any time on or after 1st April 1993 make a proposal for alteration of the list so as to—

- (a) show with effect from a particular date a dwelling which is not or was not shown on the list;
- (b) delete with effect from a particular date a dwelling which is or was shown on the list; or
- (c) change with effect from a particular date a valuation band which is or was shown on the list in respect of a dwelling.

(2) Where a dwelling is shown on the list as compiled, no proposal for alteration of the valuation band first shown in respect of the dwelling on the grounds that it is not the band which should have been so shown may be made after 30th November 1993 unless it is such a proposal as is described in paragraph (3), (4), (5) or (6).

(3) Where—

- (a) the valuation band shown in respect of a dwelling on the list as compiled is not the same valuation band as was shown in respect of that dwelling on the copy of the proposed list sent to the levying authority in terms of section 85 (1)(b) of the Act; and
- (b) that dwelling is not one in respect of which notification has been given by the authority in terms of regulation 6(3) of the Administration Regulations;

a proposal in relation to that dwelling may be made within 6 months of issue by the levying authority of the first demand notice showing in respect of the dwelling the valuation band which appears on the list as compiled.

(4) Where notification has been given by a levying authority in respect of a dwelling in terms of paragraph (2) or (3) of regulation 6 of the Administration Regulations, a proposal in relation to that dwelling may be made within 6 months of that notification.

(5) Where a person first becomes a taxpayer in respect of a dwelling after 31st May 1993, that person may, unless any of the circumstances specified in paragraph (9) apply, make a proposal in relation to that dwelling within 6 months of becoming a taxpayer.

(6) Where an appeal decision which is a relevant decision in respect of a dwelling has been made, a proposal in relation to that dwelling may be made within 6 months of that decision.

(7) Where a list is altered so as to show a dwelling which was not shown on the list as compiled, no proposal for alteration of the valuation band first shown in respect of that dwelling on the grounds that it is not the band which should have been so shown may be made unless—

- (a) the proposal is made before 1st December 1993;
- (b) the proposal is made within 6 months of—
 - (i) the date on which the only or last notice in respect of that alteration was served under regulations 14 and 16; or
 - (ii) where no such notice was served, the date of the appeal decision to which the alteration gives effect;
- (c) the proposal is made by a person who has within the last 6 months first become a taxpayer in respect of the dwelling and none of the circumstances specified in paragraph (9) apply; or
- (d) the proposal is made within 6 months of an appeal decision which is a relevant decision in respect of the dwelling.

(8) Where the valuation band shown in respect of a dwelling on the list is altered, no proposal for a further alteration of that band (whether involving a restoration to the original band or otherwise) may be made unless—

- (a) the proposal is made before 1st December 1993;
- (b) the proposal is made within 6 months of—
 - (i) the date on which the only or last notice in respect of that alteration was served under regulations 14 and 16; or

- (ii) where no such notice was served, the date of the appeal decision to which the alteration gives effect;
 - (c) the proposal is made by a person who has within the last 6 months first become a taxpayer in respect of the dwelling and none of the circumstances specified in paragraph (9) apply;
 - (d) the proposal is made within 6 months of an appeal decision which is a relevant decision in respect of the dwelling; or
 - (e) the grounds of the proposal are that, since the effective date of the alteration—
 - (i) there has been a material increase in the value of the dwelling and it, or any part of it, has subsequently been sold;
 - (ii) there has been a material reduction in the value of the dwelling; or
 - (iii) the assessor has, under Schedule 5 to the Act, added, amended or deleted an apportionment note relating to any lands and heritages of which the dwelling forms or formed part.
- (9) The circumstances referred to in paragraphs (5), (7)(c) and (8)(c) are that—
- (a) a proposal to alter the list in relation to the same dwelling and arising from the same facts has been considered and determined by a valuation appeal committee or on appeal from such a committee;
 - (b) the new taxpayer is a company which is a subsidiary of the immediately preceding taxpayer;
 - (c) the immediately preceding taxpayer was a company which is a subsidiary of the new taxpayer;
 - (d) both the new and immediately preceding taxpayers are companies which are subsidiaries of the same company; or
 - (e) both the new and immediately preceding taxpayers are partnerships and at least one member of the partnership which is the new taxpayer was a member of the other partnership.
- (10) No proposal may be made at any time to alter the valuation band shown in the list in respect of a dwelling falling within either of the classes of lands and heritages specified in paragraphs (2) and (3) of regulation 2 of the Council Tax (Dwellings) (Scotland) Regulations 1992(6).

Manner of making proposals and information to be included

- 6.—(1) A proposal shall—
- (a) be made in writing;
 - (b) state the name and address of the person making it, and the capacity in which he does so;
 - (c) identify the dwelling to which it relates;
 - (d) identify the manner in which it is proposed that the list be altered and the date from which it is proposed that the alteration have effect;
 - (e) include a statement of the reasons why the person making the proposal believes that the list should be altered; and
 - (f) where it is a proposal which, but for any appeal decision which is a relevant decision in respect of the dwelling to which the proposal relates, would be out of time in terms of regulation 5, identify that appeal decision.
- (2) Every proposal shall be served on the assessor.

Acknowledgement of proposals

7.—(1) Within the period of 14 days beginning on the day on which he receives a proposal, the assessor shall acknowledge its receipt by notice served on the proposer.

(2) A notice under paragraph (1) shall specify the date of receipt of the proposal and shall be accompanied by a statement of the effect of regulations 11, 12, 14 and 15.

Proposals treated as invalid—lack of title or out of time

8.—(1) Where the assessor is of the opinion that a proposal has not been validly made because the proposer is not a person who, at the time of making the proposal, is entitled to do so in terms of regulation 5, he may within six weeks of its service on him serve notice on the proposer that he is of that opinion, and stating—

- (a) his reasons for that opinion; and
- (b) the effect of paragraphs (2) and (3).

(2) If the proposer disagrees with the opinion of the assessor stated in a notice under paragraph (1), the proposer may appeal against the notice no later than four weeks after the date of its service.

(3) Where the assessor has served a notice under paragraph (1) and the proposer has not timeously appealed against it under paragraph (2), the assessor shall be entitled to treat the proposal as invalidly made and shall not require to take any further action in relation to it.

(4) Failure by the assessor to serve a notice under paragraph (1) in respect of a proposal shall not preclude him from contending in any appeal following a referral under regulation 15 that the proposal was not validly made for the reason mentioned in that paragraph.

Proposals treated as invalid—lack of information

9.—(1) Where the assessor is of the opinion that a proposal has not been validly made because it does not include all the information specified in paragraph (1) of regulation 6, he may within six weeks of the date of service of the proposal on him serve on the proposer a notice complying with paragraph (2).

(2) A notice under paragraph (1) shall—

- (a) state the opinion of the assessor that the proposal has not been validly made;
- (b) specify which of the information required by paragraph (1) of regulation 6 has not been supplied to him;
- (c) state that that information must be supplied to him no later than four weeks after the date of service of the notice; and
- (d) advise the proposer of his right of appeal under paragraph (3) and of the effect of paragraph (4).

(3) If the proposer disagrees with the opinion of the assessor stated in a notice under paragraph (1), the proposer may appeal against the notice no later than four weeks after the date of its service.

(4) Where the assessor has served a notice under paragraph (1) and the proposer has not—

- (a) timeously appealed against it under paragraph (3); or
- (b) timeously supplied to the assessor the information specified in the notice;

the assessor shall be entitled to treat the proposal as invalidly made and shall not require to take any further action in relation to it.

Proposals treated as invalid—appeals

10.—(1) An appeal under regulation 8(2) or 9(3) shall be initiated by serving notice of appeal on the assessor.

(2) Unless the assessor withdraws the notice against which the appeal is being made, he shall within four weeks of service of the notice of disagreement under paragraph (1) transmit to the secretary of the relevant local valuation panel notice that an appeal has been made, together with details of the contents of the proposal and of the reasons for his opinion that it has not been validly made.

Withdrawal of proposals

11.—(1) Subject to paragraphs (2) and (3), a proposal may be withdrawn by notice in writing served on the assessor by or on behalf of each proposer.

(2) Where, after reasonable inquiry, the assessor believes that none of the proposers are taxpayers in respect of the relevant dwelling at the time of seeking to withdraw the proposal, the assessor shall serve notice of proposed withdrawal on at least one current taxpayer in respect of that dwelling.

(3) Where, within the period of six weeks beginning on the day on which a notice under paragraph (2) is served, an interested person intimates to the assessor that he wishes to adopt the proposal, the proposal shall from the date of that intimation be treated for the purposes of these Regulations as having been made by that person.

Joint proposals

12.—(1) Where a person has made a proposal to the assessor, any other person who is an interested person in respect of that proposal may, so long as the proposal has not been withdrawn nor a referral in respect of it made under regulation 15, by notice indicate to the assessor that he wishes to support the proposal.

(2) Where a person has served notice under paragraph (1), the proposal shall from the date of service of the notice be treated for the purposes of these Regulations as having been made jointly by the original proposer and that person.

Valuations in connection with proposals

13. Any valuation of a dwelling carried out in connection with a proposal for the alteration of the list shall be carried out in accordance with section 86(2) of the Act(7).

Alterations agreed by assessor

14. Where the assessor is of the opinion that a proposal is well-founded, he shall—

- (a) serve notice on each proposer that he intends to alter the list accordingly; and
- (b) within six weeks of the date of the notice so alter the list.

Disagreement as to proposed alteration

15.—(1) Where the assessor is of the opinion that a proposal is not well-founded and it is not withdrawn, he shall in accordance with paragraphs (2) to (6) refer the disagreement between him and the proposer as an appeal to the relevant local valuation panel.

(2) Subject to paragraphs (3) to (5), a referral under paragraph (1) shall be made within the period of six months beginning on the day on which the proposal was served on the assessor.

(7) Regulations under section 86(2) are [S.I. 1992/1329](#), as amended by [S.I. 1993/354](#).

(3) Where the assessor has served a notice under regulation 8(1) in respect of a proposal, a referral under paragraph (1) shall, subject to paragraph (5), be made within the period of six months beginning on the date on which—

- (a) the assessor withdrew that notice; or
- (b) the proposer's appeal against that notice was finally resolved in his favour.

(4) Where the assessor has served a notice under regulation 9(1) in respect of a proposal, a referral under paragraph (1) shall, subject to paragraph (5), be made within the period of six months beginning—

- (a) where the assessor has been satisfied that he has been supplied with all the information specified in that notice, on the last date on which any of that information was supplied to him; or
- (b) in any other case, on the date on which the proposer's appeal against that notice was finally resolved in his favour.

(5) Where a proposal has been adopted by a person under regulation 11(3), a referral under paragraph (1) shall be made within the period of six months beginning on the date on which that person intimated to the assessor his wish to adopt the proposal.

(6) A referral under paragraph (1) shall take place by means of the assessor transmitting to the secretary of the panel a notice of appeal together with a statement of the following matters:—

- (a) the proposed alteration of the list;
- (b) the date of service of the proposal;
- (c) the name and address of the proposer; and
- (d) the grounds on which the proposal was made.

Notification of alteration

16.—(1) Within six weeks of altering a list, an assessor shall notify the levying authority stating the effect of the alteration, and the levying authority shall as soon as is reasonably practicable alter the copy of the list deposited by them at their principal office under section 85(5) of the Act.

(2) Where a list is altered in the circumstances described in regulation 14 and the assessor, after reasonable inquiry, believes that none of the persons receiving notice under that regulation were taxpayers in respect of the relevant dwelling at the date of the alteration being made, he shall within six weeks of that date serve notice of the alteration on at least one such taxpayer.

(3) Where a list is altered so as to give effect to an appeal decision and the assessor, after reasonable inquiry, believes that no party to the appeal was a taxpayer in respect of the relevant dwelling at the date of the alteration being made, he shall within six weeks of that date serve notice of the alteration on at least one such taxpayer.

(4) Where a list is altered otherwise than as described in paragraph (2) or (3), the assessor shall within six weeks of making the alteration serve notice of it on—

- (a) at least one taxpayer in respect of the relevant dwelling; and
- (b) the owner of that dwelling if the assessor, after reasonable inquiry, believes that he is not a taxpayer and the alteration involves the addition of the dwelling to the list.

(5) The assessor shall—

- (a) serve with any notice under paragraph (2), (3) or (4), as the case may be, a statement of the effect of regulation 5 as it relates to the alteration in question; and
- (b) take such steps as are reasonably practicable to secure that any such notice is served not later than notification is given under paragraph (1).

Effective date for alterations—additions or deletions of dwellings

17.—(1) Any alteration of the list effected so as to show a dwelling which is not or was not shown on the list shall have effect from the later of—

- (a) the day on which the dwelling came into existence as a dwelling; and
- (b) 1st April 1993.

(2) Any alteration of the list effected so as to delete a dwelling which is or was shown on the list shall have effect from the later of—

- (a) the day on which the property ceased to exist as a dwelling; and
- (b) 1st April 1993.

Effective date for alterations—corrections

18.—(1) Any alteration of the list effected so as to show, in respect of a dwelling, the correct valuation band applicable to the dwelling on the day on which the dwelling was first shown on the list shall have effect from that day.

(2) Any alteration of the list effected so as to correct an inaccuracy resulting from an earlier alteration which was—

- (a) intended to reflect a material increase or material reduction in the value of a dwelling; or
- (b) a consequence of the assessor, under Schedule 5 to the Act, adding, amending or deleting an apportionment note relating to any lands and heritages included in the valuation roll,

shall have effect from the effective date of that earlier alteration.

Effective date for alterations—other cases

19.—(1) Any alteration of the list effected so as to reflect a material increase in the value of a dwelling shall have effect from the day on which the first sale of the dwelling, or any part of it, subsequent to the material increase was completed.

(2) For the purposes of paragraph (1), a sale of a dwelling, or part of a dwelling, shall be deemed to be completed on the date specified as the date of entry in the deed conveying the dwelling or part, as the case may be.

(3) Any alteration of the list which is—

- (a) effected so as to reflect a material reduction in the value of a dwelling; and
- (b) made without a proposal relating to that material reduction having been made to the assessor;

shall have effect from the later of—

- (i) the first day of the financial year in which the alteration is made; and
- (ii) the operative date.

(4) Any alteration of the list which is—

- (a) effected so as to reflect a material reduction in the value of a dwelling; and
- (b) made in response to a proposal relating to that material reduction (whether or not the alteration is exactly that requested in the proposal),

shall have effect from the later of—

- (i) the first day of the financial year in which the proposal is made; and
- (ii) the operative date.

(5) In paragraphs (3) and (4), “the operative date” means the first day on which the material reduction in the value of the dwelling was such that a valuation of it, carried out in accordance with section 86(2) of the Act and on the assumptions and in accordance with the principles prescribed thereunder in respect of valuations for compiling the list⁽⁸⁾, would have placed the dwelling in a valuation band appearing in the Table set out in section 74(2) of the Act above the band shown in the valuation list in respect of the dwelling for that day.

(6) Any alteration of the list effected as a consequence of the assessor, under Schedule 5 to the Act, adding, amending or deleting an apportionment note relating to any lands and heritages included in the valuation roll shall have effect from the same date as that addition, amendment or deletion, as the case may be.

Service of notices

20. If the assessor has not, after reasonable inquiry, been able to ascertain the identity of any person upon whom a notice under this Part requires to be served by him, he may serve that notice by addressing it to “The Council Tax Payer” or “The Owner” (as the case may be) of the dwelling concerned (naming the dwelling) without further name or designation.

PART III

NON-LIST APPEALS

Appeals in relation to estimates or benefit matters

21. Section 81(1) of the Act shall not apply where the grounds on which the person concerned is aggrieved are that—

- (a) any assumption as to the future that is required by Part V of the Administration Regulations to be made in the calculation of an amount payable as council tax or council water charge may prove to be inaccurate; or
- (b) the calculation of an amount payable as council tax fails to take proper account of the provisions of the Council Tax Benefit (General) Regulations 1992⁽⁹⁾.

Appeals against levying authority decisions and calculations

22.—(1) An appeal under section 81(1) of the Act shall be initiated by serving a written notice of appeal on the levying authority.

(2) Any notice served under paragraph (1) shall contain the following information:—

- (a) the grounds on which the appeal is made; and
- (b) the date on which the aggrieved person’s notice under section 81(4) of the Act was served on the levying authority.

(3) Where a person is aggrieved as mentioned in sub-section (1) of section 81 of the Act, any notice of appeal under paragraph (1) shall require to be served within 4 months of the date of service by him of the first notice under subsection (4) of that section bringing the grievance in question to the attention of the levying authority.

(4) On receipt of a notice under paragraph (1), the levying authority shall transmit it to the secretary or assistant secretary of the relevant local valuation panel.

⁽⁸⁾ See S.I. 1992/1329; amendments relative to valuations in connection with proposals are contained in S.I. 1993/354.

⁽⁹⁾ S.I. 1992/1814.

Appeals against penalties

23.—(1) An appeal under paragraph 3 of Schedule 3 to the Act shall be initiated by serving a written notice of appeal on the levying authority.

(2) Any notice served under paragraph (1) shall—

(a) contain the following information:—

- (i) the grounds on which the appeal is made; and
- (ii) the date on which the penalty was imposed; and

(b) require to be served within 2 months of the later of—

- (i) that date; and
- (ii) 1st April 1993.

(3) On receipt of a notice under paragraph (1), the levying authority shall transmit it to the secretary or assistant secretary of the relevant local valuation panel.

Appeals against completion notices

24.—(1) An appeal under paragraph 2 of Schedule 6 to the Act shall be initiated by serving a written notice of appeal on the assessor.

(2) Any notice of appeal served under paragraph (1) shall—

- (a) contain a statement of the grounds on which the appeal is made; and
- (b) be accompanied by a copy of the completion notice which is the subject of the appeal.

(3) On receipt of a notice under paragraph (1), the assessor shall transmit it to the secretary or assistant secretary of the relevant local valuation panel.

PART IV

APPEAL PROCEDURE

Interpretation of Part IV

25.—(1) In this Part, unless the context otherwise requires—

“appeal” means an appeal under—

- (a) Part II of these Regulations;
- (b) section 81(1) of the Act;
- (c) paragraph 3 of Schedule 3 to the Act; or
- (d) paragraph 2 of Schedule 6 to the Act;

“committee” means a valuation appeal committee for a valuation area constituted in accordance with the Valuation (Local Panels and Appeal Committees Model Scheme) (Scotland) Order 1975(10);

“secretary” means the secretary or assistant secretary to the local valuation panel from which the committee is constituted, or any other person for the time being authorised by that panel to act as secretary or assistant secretary to the committee.

(2) Any reference in this Part to a party to an appeal means the person or persons who made the appeal and—

- (a) in the case of an appeal under Part II of these Regulations or under paragraph 2 of Schedule 6 to the Act, the assessor;
- (b) in the case of any other appeal, the levying authority.

Withdrawal of appeals

26.—(1) An appeal may be withdrawn—

- (a) by notice in writing to that effect being given to the secretary of the committee by or on behalf of each appellant; or
- (b) with leave of the committee, by an appellant giving intimation to that effect at a hearing.

(2) Where, after an appeal under Part II of these Regulations has been lodged, the assessor decides that the proposal to which the appeal relates is well-founded, he shall—

- (a) proceed in accordance with regulation 14; and
- (b) inform the secretary of the committee accordingly;

and the appeal shall be deemed to be withdrawn.

Disposal by written representations

27.—(1) An appeal may be disposed of on the basis of written representations if all the parties have given their agreement in writing.

(2) Where all the parties have given their agreement as mentioned in paragraph (1), the secretary shall serve notice on the parties accordingly and each party may, within four weeks of service of such a notice, serve on the secretary a notice stating—

- (a) his reasons or further reasons for the disagreement giving rise to the appeal; or
- (b) that he does not intend to make further representations.

(3) A copy of any notice served in pursuance of paragraph (2) shall be served by the secretary on the other party or parties to the appeal, and shall be accompanied by a statement of the effect of paragraphs (4) and (5).

(4) Any party on whom a notice is served under paragraph (3) may, within four weeks of service of such a notice, serve on the secretary a further notice stating—

- (a) his response to the other party's statement; or
- (b) that he does not intend to make further representations;

and the secretary shall serve a copy of any such further notice on the other party or parties.

(5) After expiry of the period of four weeks referred to in paragraph (4), the secretary shall submit to the committee—

- (a) any information transmitted to him under these Regulations; and
- (b) any notice under paragraph (2) or (4).

(6) Following receipt of the documents referred to in paragraph (5), the committee may—

- (a) require any party to furnish in writing further particulars of the grounds relied on and of any relevant facts or contentions; or
- (b) order that the appeal be disposed of on the basis of a hearing.

(7) Where further particulars are supplied by a party in response to a requirement under paragraph (6)(a), the secretary shall serve a copy of those particulars on every other party and each such party may, within four weeks of such service, serve on the secretary any further statement he wishes to make in response.

(8) Any party may, at any time before an appeal is determined under this regulation, withdraw his agreement under paragraph (1) by serving notice on the secretary.

Notice of hearing

28.—(1) Where—

(a) an appeal has been made to the committee and the notice of appeal has not been withdrawn or deemed to be withdrawn; and

(b) the appeal is not one which is to be disposed of on the basis of written representations; the secretary shall issue to each party a notice for the hearing of the appeal by the committee.

(2) The secretary shall give to each party not less than 35 days' notice of the date, time and place set for the hearing of the appeal.

(3) The secretary shall advertise the date, time and place appointed for any hearing by causing a notice giving such information to be conspicuously displayed—

(a) at an office of the levying authority for the area of the relevant local valuation panel; and

(b) at the place appointed for the hearing (unless that place is such an office as is referred to in sub-paragraph (a)).

(4) The notice required by paragraph (3) shall name a place where a list of the appeals to be heard may be inspected.

Statement of evidence

29.—(1) The committee may require a party, before such date as the committee may specify—

(a) to provide any other party to the appeal with a written statement outlining the evidence which he proposes to lead at the hearing; or

(b) to furnish any other party to the appeal with a copy of all productions on which he proposes to found at the hearing.

(2) Where the committee makes any requirement under paragraph (1), it shall not be competent, unless the committee so allows, for a party to lead evidence other than in accordance with the material previously provided by him.

Power to require attendance of witnesses and to order recovery of documents

30.—(1) Except in a case which is to be disposed of on the basis of written representations and subject to paragraphs (2) and (3), the committee may, on the motion of any party to the proceedings or *ex proprio motu*, by notice in writing—

(a) grant to a party such commission and diligence for the recovery of documents, or provide such other means of recovery thereof, as could be granted or provided by the Court of Session in a cause before them, such recovery being effected, where a commission and diligence has been granted, by execution thereof or in that or any other case in any manner in which recovery could be provided for by the Court of Session in such a cause; and

(b) require the attendance of any person as a witness or require the production of any document relating to the question to be determined;

and may appoint the time at or within which or the place at which any act required in pursuance of this regulation is to be done.

(2) No person shall be required in obedience to a requirement imposed under paragraph (1) to attend at any place which is more than 10 miles from the place where he resides unless the necessary

expenses are paid or tendered to him by the party at whose instance his attendance has been required or by the committee, as the case may be.

(3) Nothing in this regulation shall empower the committee to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the proceedings were proceedings in a court of law.

(4) Any notice given under paragraph (1) shall contain a reference to the provisions of section 82(3) of the Act (by which any person who fails to comply with any such notice shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale).

Failure to appear or be represented at hearing

31.—(1) If no appellant appears or is represented at the hearing of an appeal, the committee may dismiss the appeal and shall, in that event, notify the appellant or appellants of the decision to dismiss the appeal.

(2) An appellant may, within 14 days from such notification or such longer period as the committee may in special circumstances allow, represent in writing to the committee that there was reasonable excuse for his absence and the committee may, if satisfied that there was such excuse, recall the said decision and appoint a further date, time and place for the hearing of the appeal, of which it shall give the parties not less than 7 days' notice.

Arrangements at hearing

32.—(1) The hearing shall be in public unless the committee with reasonable cause otherwise decides, but nothing in these Regulations shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending any hearing in that capacity.

(2) The committee may at its discretion consider on the day of the hearing representations from parties as to the order of that day's list of appeal cases, and may thereafter alter that order.

(3) The committee may at its discretion—

- (a) at any time postpone or adjourn a hearing, giving parties such intimation as it considers reasonable; or
- (b) consider—
 - (i) any request for adjournment of a hearing made by a party; and
 - (ii) representations by any other party as to that request;
 and, if it thinks fit, adjourn the hearing.

(4) In any case where a hearing has been adjourned before it has commenced, the date set for the adjourned hearing shall, for the purposes of regulation 28(2), be deemed to be the date set for the hearing.

Procedure at hearing

33. At the hearing of an appeal—

- (a) the committee shall decide the order in which the parties shall be heard and may consider submissions by parties as to that order before reaching its decision;
- (b) a party may call and examine witnesses, give evidence on his own behalf, and cross-examine—
 - (i) any other party to the appeal who gives evidence; and
 - (ii) any witness called by another party;

- (c) the committee may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form; and
- (d) any written statement (including an affidavit) admissible under section 2(1)(b) of the Civil Evidence (Scotland) Act 1988(11) may be received in evidence without being spoken to by a witness if—
 - (i) all parties to the appeal so agree; or
 - (ii) in the absence of such agreement, the committee at its discretion so decides.

Representation at hearing

34.—(1) At the hearing of an appeal, a party may—

- (a) conduct his own case; or
- (b) subject to paragraphs (2) and (3), be represented by any person whether or not legally qualified.

(2) A member of the local valuation panel from which the committee is constituted shall not be entitled to represent any party to an appeal.

(3) The committee may, if satisfied that there are good and sufficient reasons for doing so, refuse to permit a particular person to represent a party at a hearing.

Record of evidence

35. Where a party requires a record to be made of the evidence led at the hearing, he—

- (a) may make arrangements for the taking, at his expense, of such a record; and
- (b) shall inform the committee accordingly.

Decisions

36.—(1) The decision of the committee on an appeal may be given—

- (a) orally at the end of a hearing;
- (b) orally at an adjourned sitting of a hearing; or
- (c) in writing.

(2) A written statement of the reasons for the decision shall be given to all parties in every case and, where the decision is given orally, such a written statement shall be issued by the committee to all parties within seven days of the decision being given.

Orders

37.—(1) On deciding an appeal, other than an appeal under Part II of these Regulations, the committee may in consequence of the decision by order require—

- (a) the reversal of a decision of a levying authority;
- (b) the quashing of a calculation of an amount payable as council tax or council water charge;
- (c) where the calculation of an amount has been quashed, the re-calculation of that amount;
- (d) the quashing of a penalty imposed under paragraph 2 of Schedule 3 to the Act;
- (e) the alteration of a list (prospectively or retrospectively).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) On deciding an appeal under Part II of these Regulations, the committee may in consequence of the decision by order require an assessor to alter a list in accordance with any provision made by or under the Act.

(3) The assessor shall comply with any order under sub-paragraph (e) of paragraph (1) or under paragraph (2) within six weeks beginning on the day of its making.

(4) An order under this regulation may require any matter ancillary to its subject-matter to be attended to.

St. Andrew's House,
Edinburgh
19th February 1993

Allan Stewart
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

The council tax and the council water charge become payable in respect of dwellings in Scotland as from 1st April 1993. These Regulations make provision for the circumstances in which council tax valuation lists can be altered after that date and for the procedures for making proposals for such alterations and for appeals when there are disagreements about proposals. The Regulations also set down procedures for appeals relating to the council tax and the council water charge on matters other than the alteration of a list.

Part II deals with restrictions on the alteration of a valuation band shown on a list (regulation 4), proposals for alterations (regulations 5 and 6), the procedure following the making of such proposals (regulations 7 to 15), the manner in which the assessor is to notify persons of alterations made to a list (regulation 16) and the dates from which alterations are to have effect (regulations 17 to 19).

Part III makes provision as to initiating appeals which do not concern list alterations. Regulation 21 prescribes grounds on which appeals cannot be taken under these Regulations. There are provisions on appeals against levying authority decisions and calculations (regulation 22), against the imposition of penalties (regulation 23) and against completion notices (regulation 24).

Part IV sets down the procedures to be followed before valuation appeal committees, both as regards appeals deriving from proposals for list alterations and as regards the types of appeal dealt with in Part III. Provision is made for procedures prior to, or instead of, a hearing (regulations 26 to 30), for procedures at a hearing (regulations 31 to 35) and for how decisions are to be given, and orders made, by a committee (regulations 36 and 37).