

1978 No. 252 (S. 31)

RATING AND VALUATION

The Appeals and Valuation Appeal Committee Procedure
(Scotland) Regulations 1978

<i>Made</i> - - - -	22nd February 1978
<i>Laid before Parliament</i>	6th March 1978
<i>Coming into Operation</i>	1st April 1978

In exercise of the powers conferred on me by section 15 of the Local Government (Financial Provisions) (Scotland) Act 1963(a) as amended by paragraph 25 of Schedule 6 to the Local Government (Scotland) Act 1975(b) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Appeals and Valuation Appeal Committee Procedure (Scotland) Regulations 1978, and shall come into operation on 1st April 1978, and shall apply to appeals relating to a valuation roll coming into force on or after that date.

Interpretation

2.—(1) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) References in these regulations to any enactment shall be construed as references to such enactment as amended or extended by or under any other enactment, order or regulations, including these regulations.

(3) In these regulations, unless the context otherwise requires—

“the Act of 1975” means the Local Government (Scotland) Act 1975;

“the Valuation Acts” means the Lands Valuation (Scotland) Act 1854(d), the Acts amending that Act and any other Act relating to valuation;

“appeal” includes complaint, and “appellant” shall be construed accordingly;

“assessor” means the assessor or depute assessor for a valuation area appointed under section 116 of the Local Government (Scotland) Act 1973(e);

“committee” means any valuation appeal committee for a valuation area constituted in accordance with the model scheme made under section 4 of the Act of 1975;

“notice” means notice in writing given by means of the recorded delivery service;

(a) 1963 c. 12.
(d) 1854 c. 91.

(b) 1975 c. 30.
(e) 1973 c. 65.

(c) 1889 c. 63.

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

and other words and expressions used have the same meaning as in the Valuation Acts.

(4) Any reference in these regulations to a numbered regulation or to a numbered Schedule other than a Schedule to an Act shall be construed as a reference to the regulation or Schedule bearing that number in these regulations.

Method of appealing

3.—(1) An appeal to a committee shall be lodged in writing with the assessor and if the appeal relates to value the appellant shall specify the amount of the valuation which he considers should be substituted for that entered in the valuation roll.

(2) In the case of an appeal which is not withdrawn or where the parties have not reached agreement under section 2(3) of the Act of 1975, the assessor may at any time before the prescribed date, and shall not later than that date, notify the secretary of the appeal.

(3) If, in the case of an appeal which has been notified to the secretary under regulation 3(2), the parties subsequently reach agreement under section 2(3) of the Act of 1975 at any time before the appeal is otherwise determined the assessor shall so inform the secretary.

(4) Unless the secretary has been notified under regulation 3(3) that the parties have reached agreement, he shall issue a notice for the hearing of an appeal notified to him under regulation 3(2) at the earliest convenient date, having regard to the location of the lands and heritages in respect of which the appeal is to be heard, and to the nature of the appeals which at the time are outstanding, or which may be expected to come before a committee for the valuation area.

(5) In this regulation “prescribed date” means such date as is prescribed for the purposes of this regulation by order under section 13 of the Valuation and Rating (Scotland) Act 1956(a).

Date and place of hearing

4. The secretary shall—

- (a) give to every appellant not less than 28 days’ notice of the date, time and place fixed for the hearing of his appeal;
- (b) be satisfied that the assessor is aware of the arrangements made for the hearing of each appeal.

Hearings

5.—(1) A hearing shall be in public unless upon a party’s showing reasonable cause the committee otherwise decide:

Provided that nothing in these regulations shall prevent a member of the Council on Tribunals or of its Scottish Committee in that capacity from attending any hearing.

(2) The committee at their discretion may of their own motion, or at the request of the parties or any of them, on reasonable cause being shown by such party or parties, at any time and from time to time postpone or adjourn a hearing. The committee shall give to the parties such intimation of any such postponed or adjourned hearing as the committee considers reasonable in the circumstances.

Information to be furnished by parties to an appeal

6.—(1) An appellant who is maintaining his appeal shall, not later than 21 days before the date fixed for the hearing, furnish to the assessor a written statement of his grounds for maintaining that the entry in the valuation roll is erroneous.

(2) The assessor shall within 7 days of receipt of such a statement furnish to such appellant a written statement of the grounds on which the entry in the valuation roll is arrived at.

(3) Any party to an appeal may, not later than 14 days before the date fixed for the hearing, furnish to any other party to the appeal a list of any lands and heritages on which he proposes to found by way of comparison at the hearing and may at the same time make written request to such other party to provide him with a list of lands and heritages on which that other party proposes to found by way of comparison at the hearing and any party so requested shall furnish such a list not later than 7 days before the date fixed for the hearing.

(4) At the hearing, the committee shall not allow a party to found on lands and heritages not included in a list provided by him under regulation 6(3) without the consent of all parties to the hearing, but may, if the party seeking to found on those lands and heritages shows cause why they were not so included, allow him to found on them, subject to such conditions as to adjournment and otherwise as the committee may think fit.

Statements of evidence

7. The committee may on cause being shown to them by any party to an appeal require all parties to the appeal to provide, within such period as the committee may specify, the other parties to the appeal with a written statement outlining the evidence which the parties propose to lead at the hearing and to furnish the other parties to the appeal with a copy of all productions on which the parties propose to found at the hearing and in the event of the committee so requiring, it shall not be competent, unless the committee, on cause being shown, so allow, for the parties to lead evidence other than in accordance with material previously provided by them.

Representation at hearing

8. Subject to the provisions of section 10 of the Lands Valuation (Scotland) Act 1854 (attendance of assessor at hearing) a party may appear before and be heard by the committee in person or he may be represented by counsel or solicitor or, with the leave of the committee, by any other person:

Provided that a member of the local valuation panel from which the committee is constituted shall not be entitled to represent any party to the appeal.

*Procedure at hearing***9.** At a hearing—

- (a) unless the committee after hearing any submission by parties as to the order of hearing otherwise determine, the appellant shall be heard first;
- (b) a party may call and examine witnesses, give evidence on his own behalf and cross-examine any other party to the appeal who gives evidence and any witness called by any other party.

10. If any appellant fails to appear or be represented at the hearing of his appeal, the committee may dismiss the appeal:

Provided that within 14 days from notification of the dismissal of any appeal under this regulation or such longer period as the committee may in special circumstances allow the appellant may 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 they shall give the parties not less than 7 days' notice.

11.—(1) Where a party to an appeal requires a record of the evidence led at the hearing he may make arrangements for the taking at his expense of such a record and he shall inform the committee accordingly; and he shall, in accordance with arrangements approved by the committee, retain the record for so long as may be required for the purposes of regulation 11(2).

(2) The committee may, if such record has been taken and is required in connection with the preparation of a case to be stated for the opinion of the Lands Valuation Appeal Court, require the party or parties on whose behalf the said evidence was taken to provide a certified transcript of the record, at the expense of the committee, and the committee shall on request make available a copy of such transcript to any party to the appeal.

12. Without prejudice to the generality of regulation 5(2), the committee may adjourn the hearing of an appeal for the purpose of considering their decision thereon, and if they do so they shall—

- (i) announce, at the time of such adjournment, the date, time and place of the sitting at which the decision will be issued; or
- (ii) send notice to the parties of that decision within 3 days of reaching it; or
- (iii) give not less than 7 days' notice of the date, time and place of the sitting at which the decision will be issued.

Decision

13. If any party is not present or represented when the decision on any appeal is issued, the committee shall send notice of the decision to that party within 3 days of issuing the decision.

Reasons for decision

14. The committee shall, on application in writing by or on behalf of any party made within 21 days from the date of the decision on an appeal, supply to the parties, within 7 days from the date of the application, a statement of the reasons for the decision.

Relaxation of regulations

15. A committee may—

- (a) of their own motion or on the application of any party to an appeal, waive any breach or non-observance of any provision of these regulations;
- (b) if they think fit, extend the time appointed by these regulations for doing any act, and may do so notwithstanding that the time so appointed has expired before an application for extension is made:

Provided that the committee shall satisfy themselves that they would not thereby cause any substantial prejudice to any party to the appeal.

Amendments of the Valuation Acts

16. In section 9 of the Valuation of Lands (Scotland) Amendment Act 1879(a) (case to set forth grounds of appeal, etc.), for the words “copy of any evidence taken as aforesaid” there shall be substituted the words “transcript of any evidence recorded at the hearing of such appeal or complaint”.

Repeals and revocations

17. Except as respects appeals relating to a valuation roll in force immediately prior to the date of coming into operation of these regulations—

- (a) the provisions of the Valuation Acts specified in Schedule 1 are hereby repealed to the extent specified in the third column of the Schedule; and
- (b) the regulations specified in Schedule 2 are hereby revoked.

Transitional

18. Where before the coming into operation of these regulations there has been lodged an appeal relating to a valuation roll coming into force on 1st April 1978, anything done in relation to such an appeal by virtue of provisions repealed or revoked by these regulations, shall be treated as having been done by virtue of the corresponding provisions of these regulations, and any such appeal shall thereafter proceed in accordance with the provisions of these regulations.

New St. Andrew's House,
Edinburgh.
22nd February 1978.

Bruce Millan,
One of Her Majesty's Principal
Secretaries of State.

SCHEDULE 1

Regulation 17

Chapter	Short Title	Extent of Repeal
1879 c. 42.	Valuation of Lands (Scotland) Amendment Act 1879	Section 8
1956 c. 60.	The Valuation and Rating (Scotland) Act 1956	Section 12

SCHEDULE 2

Regulation 17

The Valuation Appeal Committee Procedure (Scotland) Regulations 1965(a)
 The Valuation Appeal Committee Procedure (Scotland) (Amendment) Regulations 1975(b).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations (a) consolidate with amendments provisions governing the procedures in appeals and complaints to Valuation Appeal Committees established under section 4 of the Local Government (Scotland) Act 1975, and (b) prescribe the procedure to be followed in proceedings before the Committees. The Regulations also provide for the amendment and repeal of provisions of the Valuation Acts which are inconsistent with or superseded by the Regulations and for the revocation of the Valuation Appeal Committee Procedure (Scotland) Regulations 1965 and the Valuation Appeal Committee Procedure (Scotland) (Amendment) Regulations 1975 which the Regulations supersede.

(a) S.I. 1965/403.

(b) S.I. 1975/1261.

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