
STATUTORY INSTRUMENTS

1995 No. 572 (S.41)

RATING AND VALUATION

**The Valuation Appeal Committee (Procedure in Appeals
under the Valuation Acts) (Scotland) Regulations 1995**

<i>Made</i>	- - - -	<i>2nd March 1995</i>
<i>Laid before Parliament</i>		<i>10th March 1995</i>
<i>Coming into force</i>	- -	<i>1st April 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 15(2), (2AA) and (2A) of the Local Government (Financial Provisions) (Scotland) Act 1963⁽¹⁾ and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992⁽²⁾, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995 and shall come into force on 1st April 1995.

(2) These Regulations shall apply to any appeal to a Committee under the Valuation Acts in respect of which a notice of appeal is lodged with an assessor on or after 1st April 1995.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government (Scotland) Act 1975⁽³⁾;

“the 1949 Act” means the Lands Tribunal Act 1949⁽⁴⁾;

“the Valuation Acts” means the Lands Valuation (Scotland) Act 1854⁽⁵⁾, the Acts amending that Act and any other enactment relating to valuation;

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

(1) 1963 c. 12; section 15(2) was amended by the Local Government (Scotland) Act 1975 (c. 30), Schedule 6, Part II, paragraph 25(a) and is amended (prospectively) by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 60(3)(d); section 15(2AA) was inserted by the Local Government and Housing Act 1989 (c. 42) Schedule 6, paragraph 2(a); section 15(2A) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31), section 12(2) and amended by the Local Government and Housing Act 1989, Schedule 6, paragraph 2(b).

(2) 1992 c. 53.

(3) 1975 c. 30.

(4) 1949 c. 42.

(5) 1854 c. 91.

“application” means application in writing;

“assessor” means the assessor or depute assessor for a valuation area appointed under section 116 of the Local Government (Scotland) Act 1973(6);

“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(7);

“disposal date”, in relation to an appeal, means the date for the time being fixed by the Secretary of State by order under section 13(1) of the Valuation and Rating (Scotland) Act 1956(8) as the last date for disposal of that appeal by a Committee;

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

“notice” means notice in writing, and “notify” shall be construed accordingly;

“party” means either the assessor or the appellant, and “parties” shall be construed accordingly;

“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;

“the Tribunal” means the Lands Tribunal for Scotland.

(2) Any reference in these Regulations to a numbered regulation or to a numbered paragraph in a regulation shall be construed as a reference to the regulation bearing that number in these Regulations, or to the paragraph bearing that number in that regulation, as the case may be.

Requirements as to appeal

3.—(1) An appeal to the Committee shall be made by way of notice, which shall specify the particular lands and heritages in respect of which the appeal is made.

(2) The notice referred to in paragraph (1) shall be lodged with the assessor of the valuation area in which the subjects of the appeal are located.

(3) The assessor shall notify the secretary that the notice of appeal has been lodged.

(4) If, after notice of appeal has been lodged, agreement is reached between the assessor and the appellant as mentioned in section 2(3) of the Act(9), the notice of appeal shall be deemed to be withdrawn and the assessor shall inform the secretary accordingly.

(5) The appellant may, by giving written intimation to the assessor, withdraw his notice of appeal and, where such intimation has been given, the assessor shall inform the secretary accordingly.

Application for referral to the Tribunal

4.—(1) The assessor or the appellant may make application to the Committee seeking referral of the appeal to the Tribunal for determination under section 1(3A) of the 1949 Act(10), but any such application must be made—

(a) more than 14 days prior to any date set under regulation 8 for the hearing of the appeal; and

(6) 1973 c. 65; subsection (8) of section 116 was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47), Schedule 1, paragraph 26; that section is wholly repealed by the Local Government etc. (Scotland) Act 1994, Schedule 14 but, at the date of making these Regulations, only the repeal of subsection (6) has been commenced.

(7) S.I.1975/1220.

(8) 1956 c. 60; section 13(1) was extended by the Local Government (Financial Provisions) (Scotland) Act 1963 (c. 12), section 22(d) and amended by the Local Government (Scotland) Act 1975 (c. 30), Schedule 6, paragraph 20(a); see S.I. 1995/164.

(9) Section 2(3) was amended by the Rating and Valuation (Amendment) (Scotland) Act 1984, Schedule 2, paragraph 15.

(10) Section 1(3A) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

(b) more than 6 months prior to the disposal date for the appeal.

(2) An application under paragraph (1) shall include representations by the applicant as to which of the criteria set out in sub-paragraphs (a) to (e) of paragraph (1) of regulation 5 apply to the appeal.

(3) The party who makes an application under paragraph (1) shall, at the same time as he makes that application, send a copy of it to the other party, and that other party may make written representations to the Committee on the application, and shall send a copy of any such representations to the applicant.

(4) The assessor and the appellant may make joint application to the Committee in accordance with the terms of section 15(2AA) of the Local Government (Financial Provisions) (Scotland) Act 1963 requiring referral of the appeal to the Tribunal for determination under section 1(3A) of the 1949 Act, but any such application must be made—

- (a) more than 14 days prior to any date set under regulation 8 for the hearing of the appeal; and
- (b) more than 3 months prior to the disposal date for the appeal.

Decision on referral to the Tribunal

5.—(1) Where an application under regulation 4(1) has been made, and it appears to the Committee that—

- (a) the facts of the case are complex or highly technical;
- (b) the evidence to be given by expert opinion is complex or highly technical;
- (c) the law applicable to the case is uncertain or difficult to apply;
- (d) the case raises a fundamental or general issue likely to be used as a precedent in other cases; or
- (e) the lands and heritages to which the appeal relates are part of larger subjects situated in more than one valuation area and the valuation of those subjects is appealed in more than one such area,

the Committee shall refer the appeal to the Tribunal for determination, and the secretary shall notify the parties accordingly.

(2) Not later than 42 days after receiving an application under regulation 4(1), the Committee shall decide, without hearing the parties in person, whether the appeal is to be heard by the Committee or referred to the Tribunal for determination and, in so deciding, the Committee shall have regard to the application and any written representations thereon, including any further representations the Committee may request of either of the parties.

(3) Where an application has been made under regulation 4(1) and the Committee has decided not to refer the appeal to the Tribunal, the Committee shall within 14 days of making its decision notify that decision with reasons in writing to both parties, and shall, subject to paragraph (4), proceed with the appeal as if no such application had been made, save that no further application may be made under regulation 4(1).

(4) No hearing of an appeal by the Committee shall proceed, except by agreement of the parties to the appeal, within 35 days after the date of notification in accordance with paragraph (3) of the Committee's decision not to refer the appeal to the Tribunal.

(5) Where an application has been made under regulation 4(1) and the Committee has decided to refer the appeal to the Tribunal for determination but the Tribunal, in accordance with section 1(3B) of the 1949 Act⁽¹¹⁾, declines to proceed to determine it, the appeal shall be remitted to the Committee which shall proceed with the appeal as if no such reference had been made, save that no further application may be made under regulation 4.

⁽¹¹⁾ Section 1(3B) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

(6) Where an application has been made under regulation 4(4), the Committee shall refer that appeal to the Tribunal, but if the Tribunal, in accordance with section 1(3B) of the 1949 Act, declines to proceed to determine it, the appeal shall be remitted to the Committee which shall proceed with the appeal as if no such reference had been made, save that no further application may be made under regulation 4.

(7) Where the Tribunal has in accordance with paragraph (5) or paragraph (6) declined to proceed to determine the appeal, the Committee shall (subject to regulation 7(9)) of new issue to each party, in accordance with the provisions of regulation 8, a notice of the date of the hearing of the appeal by the Committee, and these Regulations shall thereafter operate as if the date so set were the date originally set for the hearing.

Appeal against refusal to refer to the Tribunal

6.—(1) Where an application has been made under regulation 4(1) and the Committee had decided not to refer the appeal (hereinafter in this regulation referred to as “the original appeal”) to the Tribunal, the applicant may lodge with the Tribunal an appeal against that decision of the Committee⁽¹²⁾.

(2) An appeal to the Tribunal as provided for in paragraph (1) shall be made by way of notice given by the applicant to the Clerk to the Tribunal within 21 days after the date of notification in accordance with regulation 5(3) of the Committee’s decision not to refer the appeal to the Tribunal.

(3) The notice of appeal referred to in paragraph (2) shall specify the grounds on which the appeal is made, and shall be accompanied by a copy of the Committee’s decision and its reasons for that decision.

(4) The applicant shall, at the same time as he gives notice under paragraph (2), send a copy of it to the other party.

(5) Where an appeal has been made under paragraph (1) and the Tribunal has decided to refuse it, the Committee shall—

- (a) proceed with the original appeal as if no appeal under paragraph (1) had been made, save that no further appeal under that paragraph or further application to the Committee under regulation 4 may be made; and
- (b) (subject to regulation 7(9)) of new issue to each party, in accordance with the provisions of regulation 8, a notice of the date of the hearing of the original appeal by the Committee, and these Regulations shall thereafter operate as if the date so set were the date originally set for the hearing.

Disposal by written representations

7.—(1) An appeal may be disposed of by the Committee on the basis of written representations if both parties have, no later than 14 days prior to any date set under regulation 8 for the hearing of the appeal, given their agreement in writing to the secretary.

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

- (a) the appellant shall, if the appeal relates to the valuation entered in the valuation roll, serve on the secretary a notice stating the valuation which the appellant considers should be entered in the roll and the grounds on which that valuation is arrived at (unless this information has already been provided by the appellant to the assessor);

(12) Section 1(3BA) of the 1949 Act was inserted by the Local Government and Housing Act 1989, Schedule 6, paragraph 1, and empowers the Tribunal to determine appeals to which regulation 6 refers.

- (b) the appellant may request the assessor to provide him with the information specified in regulation 12(2) and shall advise the secretary of any such request; and
- (c) either party may serve on the secretary a notice stating—
 - (i) his reasons for the disagreement giving rise to the appeal; or
 - (ii) that he does not intend to make further representations.

(3) Where a request is made in terms of paragraph (2)(b), the assessor shall provide the appellant with the information requested within four weeks of receiving the request.

(4) A copy of any notice served by a party in pursuance of paragraph (2) shall be served by the secretary on the other party to the appeal, and shall be accompanied by a statement of the effect of paragraphs (5) and (6).

(5) Any party on whom a notice is served under paragraph (4) 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.

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

- (a) any information transmitted to him under these Regulations; and
- (b) any notice under paragraph (2) or (5).

(7) Following receipt of the documents referred to in paragraph (6), the Committee may—

- (a) require either 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.

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

(9) The giving of agreement under paragraph (1) shall not preclude the subsequent making of an application under paragraph (1) or (4) of regulation 4, but—

- (a) the parties shall not otherwise be able to request, subsequent to the giving of such agreement, that the appeal be disposed of on the basis of a hearing; and
- (b) an appeal not determined by the Tribunal shall, subject to paragraph (7)(b), be disposed of by the Committee on the basis of written representations.

Arrangements for hearing by the Committee

8.—(1) Where—

- (a) an appeal has been made to the Committee;
- (b) the notice of appeal has not been withdrawn or deemed to be withdrawn under paragraph (4) of regulation 3; and
- (c) the appeal is not one which is to be disposed of by the Tribunal or 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) Subject to paragraph (3), notices under paragraph (1) shall be issued in respect of each appeal no later than 6 months prior to the disposal date for the appeal.

(3) The secretary shall not require to comply with paragraph (2) in respect of an appeal if, prior to the date by which notices would otherwise require to be issued, he has received—

- (a) an application under paragraph (1) or (4) of regulation 4; or
- (b) notification of agreement from both parties as referred to in regulation 7(1);

relative to the appeal.

(4) The secretary shall give to each party not less than 70 days' notice of the date, time and place set for the hearing of the appeal.

(5) 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 rating 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) above).

(6) The notice required by paragraph (5) shall name a place where a list of the appeals to be heard may be inspected.

(7) If an appellant considers that his appeal has not been or is not to be heard within a reasonable period of lodging it, he may request the Committee to hear the appeal within such period as he may specify, being a period not less than 70 days from the date of his request, and if the Committee declines to hear the appeal within such a period—

- (a) it shall state its reasons for so declining; and
- (b) the secretary shall notify both parties accordingly.

Arrangements at hearing

9.—(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 shall consider at the commencement of each sitting any representations from parties as to the order of that sitting'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 postponement or adjournment of a hearing made by a party; and
 - (ii) representations by the other party as to that request;and, if it thinks fit, postpone or adjourn the hearing.

(4) In any case where a hearing has been postponed or adjourned before it has commenced, the new date set for the hearing shall, for the purposes of regulations 4(1) and (4), 7(1), 8(1) and (4), 10(1) and (5) and 12(1), be deemed to be the date set for the hearing.

Information to be furnished by parties to an appeal

10.—(1) An appellant shall, not later than 35 days before the date set for the hearing, furnish to the assessor a written statement specifying—

- (a) the grounds for his appeal; and

- (b) if the appeal relates to the valuation entered in the valuation roll, the valuation which the appellant considers should be entered in the roll and the grounds on which that valuation is arrived at.
- (2) Within 14 days of the receipt of such a statement, the assessor—
 - (a) shall furnish to the appellant a written statement of the grounds on which the entry in the valuation roll is arrived at; and
 - (b) may serve a notice on the appellant requiring him, by a date specified in the notice (being a date not less than 10 days after service of the notice), to provide written confirmation to the assessor that he intends to proceed with his appeal.
- (3) If an appellant fails timeously to—
 - (a) furnish the statement required under paragraph (1); or
 - (b) provide, in response to a notice served under sub-paragraph (b) of paragraph (2), the written confirmation referred to in that sub-paragraph;

the assessor may apply to the Committee to have the appeal dismissed and the Committee may grant that application if it thinks fit.

(4) The appellant may, within 14 days from notification of a decision to dismiss the appeal under paragraph (3) or such longer period as the Committee may in special circumstances allow, represent in writing to the Committee that there was reasonable excuse for the failure which led to the dismissal 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.

(5) Either party to an appeal may, not later than 21 days before the date set for the hearing, furnish to the other party to the appeal a list of any lands and heritages, and hereditaments in England and Wales, on which he proposes to found by way of comparison at the hearing, and may at the same time as he furnishes that list make a written request to the other party to provide him with a list of lands and heritages and hereditaments 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 14 days before the date fixed for the hearing.

(6) At the hearing, the Committee shall not allow a party to found by way of comparison on lands and heritages or hereditaments not included in a list provided by that party under paragraph (5) without the consent of the other party to the hearing, but may, if the party seeking to found on such lands and heritages or hereditaments shows cause why they were not so included, allow him to found on them, subject to such conditions as the Committee thinks fit.

(7) Nothing in this regulation applies to an appeal which is to be disposed of on the basis of written representations.

Statement of evidence

11.—(1) The Committee may require a party (hereinafter in this regulation referred to as “the first party”), before such date as the Committee may specify—

- (a) to provide the other party to the appeal with a written statement outlining the evidence which the first party proposes to lead at the hearing;
- (b) to furnish the other party to the appeal with a copy of all productions on which the first party 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 either of the parties to lead evidence other than in accordance with the material previously provided by him.

(3) Nothing in this regulation applies to an appeal which is to be disposed of on the basis of written representations.

Information to be furnished by assessor

12.—(1) At any time prior to 56 days before the date set for the hearing, the appellant may request the assessor to provide him with the information specified in paragraph (2) and the assessor shall provide that information no later than 35 days before the date set for the hearing.

(2) The information referred to in paragraph (1) is—

- (a) a list of all plant and machinery in or on the lands and heritages to which the appeal relates which the assessor, in valuing those lands and heritages, considered to fall within a class for the time being prescribed under section 42 of the Lands Valuation (Scotland) Act 1854⁽¹³⁾; or
- (b) where there is no such plant and machinery, a statement to that effect.

Representation at hearing

13.—(1) Subject to the provisions of section 10 of the Lands Valuation (Scotland) Act 1854 (attendance of assessor at hearing) and paragraphs (2) and (3), a party may appear before and be heard by the Committee in person (with assistance from any person if he wishes) or he may be represented by any person whether or not legally qualified.

(2) If in any particular case the Committee is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a person to assist or represent a party at the hearing.

(3) A member of the local valuation panel from which the Committee is constituted shall not be entitled to represent either party to the appeal.

Procedure at hearing

14. At the hearing of the appeal—

- (a) the Committee shall decide which party is to be heard first, and may hear submissions by both parties as to the order of hearing before reaching its decision;
- (b) a party may call and examine witnesses, give evidence on his own behalf, and cross-examine—
 - (i) the other party to the appeal if he gives evidence; and
 - (ii) any witness called by that other party; and
- (c) any written statement (including an affidavit) admissible under section 2(1)(b) of the Civil Evidence (Scotland) Act 1988⁽¹⁴⁾ may be received in evidence without being spoken to by a witness if—
 - (i) both parties to the appeal so agree; or
 - (ii) in the absence of such agreement, the committee at its discretion so decides.

Failure to appear or be represented at hearing

15.—(1) If an appellant fails to appear or be represented at the hearing of his appeal, the Committee may dismiss the appeal.

⁽¹³⁾ Section 42 was relevantly amended by the Local Government etc. (Scotland) Act 1994 (c. 39), section 152; see also S.I. 1994/3199.

⁽¹⁴⁾ 1988 c. 32.

(2) The appellant may, within 14 days from notification of a decision to dismiss the appeal under paragraph (1) 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.

Record of evidence

16.—(1) 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;
- (b) shall inform the Committee accordingly; and
- (c) shall, in accordance with arrangements approved by the Committee, retain the record for so long as may be required for the purposes of paragraph (2).

(2) 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, the Committee may require the party on whose behalf the said record 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 the other party to the appeal.

Decision

17.—(1) The Committee shall—

- (a) issue its decision in respect of an appeal at the conclusion of the hearing;
- (b) adjourn the hearing for the purpose of considering its decision and issue that decision at the adjourned sitting of the hearing; or
- (c) issue its decision in writing.

(2) If the Committee adjourns the hearing in terms of paragraph (1), it shall—

- (a) announce at the time of such adjournment the date, time and place of the adjourned sitting; or
- (b) give not less than 7 days' notice to each party of the date, time and place of that sitting.

(3) Within 3 days of the issue of a decision by the Committee under sub-paragraph (a) or (b) of paragraph (1), it shall send notice of it to each party.

Reasons for decision

18. The Committee shall, either at the time of issuing its decision or when sending notice of it in accordance with regulation 17(3), give to both parties a written statement of the reasons for the decision.

Relaxation of time limits

19. Without prejudice to regulations 10(4) and 15(2), the Committee may extend the time appointed by these Regulations for the doing of any act, other than the time within which an application may be made for referral to the Tribunal in terms of paragraph (1) or (4) of regulation 4, provided that it is satisfied that no substantial prejudice would thereby be caused to either party to the appeal, and it may do so notwithstanding that the time so appointed has expired before an application for an extension is made.

Revocation

20.—(1) Subject to paragraph (2), the Valuation Appeal Committee Procedure (Scotland) Regulations 1984(**15**) are hereby revoked.

(2) The Regulations referred to in paragraph (1) shall continue to apply in respect of any appeal which has been lodged with an assessor prior to 1st April 1995.

St Andrew's House, Edinburgh
2nd March 1995

George Kynoch
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern the procedure to be followed with respect to appeals and complaints made under the Valuation Acts to valuation appeal committees established under section 4 of the Local Government (Scotland) Act 1975, and include procedures relating to applications for referral of such appeals and complaints by those committees to the Lands Tribunal for Scotland. They also deal with the procedural aspects of appeals against refusals by valuation appeal committees to make such referrals.

The Regulations revoke the Valuation Appeal Committee Procedure (Scotland) Regulations 1984, except insofar as they are to continue to apply to appeals which were lodged before 1st April 1995.