



# Non-Domestic Rates (Scotland) Act 2020

## 2020 asp 4

### PART 2

#### ADMINISTRATION AND ENFORCEMENT OF NON-DOMESTIC RATES

##### *Valuation roll*

#### **2 Revaluation years**

In section 37(1) of the 1975 Act (general interpretation), in the definition of “year of revaluation”—

- (a) for “2017-18” substitute “2022-23”,
- (b) for “fifth” substitute “third”.

#### **3 New or improved properties: mark in valuation roll**

After section 2 of the 1975 Act insert—

##### **“2A Mark in valuation roll for new or improved properties**

- (1) Subsection (2) applies where an assessor—
  - (a) makes or alters an entry in the valuation roll, and
  - (b) the entry as made or altered relates to newly built lands and heritages or improved lands and heritages.
- (2) The assessor must include a mark in the entry to show that it relates to newly built lands and heritages or (as the case may be) improved lands and heritages.
- (3) An entry in the valuation roll relates to newly built lands and heritages if—
  - (a) the entry as made or (as the case may be) altered shows one or more buildings or parts of a building, and
  - (b) none of those buildings or parts of a building—
    - (i) were shown in any entry in the valuation roll or valuation list for the day immediately prior to the day on which the entry or (as the case may be) alteration takes effect, or

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- (ii) would have been shown in such an entry in the valuation roll but for an enactment providing for them not to be entered in the roll.
- (4) An entry in the valuation roll relates to improved lands and heritages if—
  - (a) the entry is altered to show a relevant increase in the rateable value of the lands and heritages to which the entry relates, and
  - (b) the entry as altered does not relate to newly built lands and heritages.
- (5) A “relevant increase” in the rateable value of lands and heritages is an increase—
  - (a) which is caused, in whole or in part, by the erection, construction, refurbishment or extension of one or more buildings or parts of a building which form part of the lands and heritages, and
  - (b) none of which is attributable to—
    - (i) the combination, division or reorganisation of lands and heritages which were shown, in whole or in part, in different entries in the valuation roll for the day immediately prior to the day on which the alteration takes effect, or
    - (ii) a change in the way the lands and heritages are being used.
- (6) A mark included in an entry in the valuation roll under subsection (2) must be removed from the entry on the next occasion when the entry is altered by an assessor.
- (7) The Scottish Ministers may by regulations—
  - (a) make provision about things that are, or are not, to be treated as a “building” for the purposes of this section,
  - (b) modify the definition of “relevant increase” in subsection (5).
- (8) Before—
  - (a) making regulations under subsection (7)(a), or
  - (b) laying a draft of a Scottish statutory instrument containing regulations under subsection (7)(b) before the Scottish Parliament,
 the Scottish Ministers must consult such persons as they consider appropriate.
- (9) Regulations under subsection (7)—
  - (a) may make different provision for different purposes,
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) Regulations under—
  - (a) subsection (7)(a) are subject to the negative procedure,
  - (b) subsection (7)(b) are subject to the affirmative procedure.
- (11) In subsection (3)(b)(ii), “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.”.

#### **4 Power of Scottish Ministers to remove exempt status of lands and heritages**

After section 8C of the 1956 Act insert—

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### **“8D Power of Scottish Ministers to remove exempt status of lands and heritages**

- (1) The Scottish Ministers may by regulations make provision requiring lands and heritages falling within subsection (2) to be entered in the valuation roll.
- (2) Land and heritages fall within this subsection if they are not entered in the valuation roll by virtue of an enactment, other than Part 2 of the Local Government Finance Act 1992, providing for them not to be so entered.
- (3) Before—
  - (a) laying a draft of a Scottish statutory instrument containing regulations under subsection (1) to which subsection (5) applies before the Scottish Parliament, or
  - (b) making regulations under subsection (1) to which subsection (6) applies,the Scottish Ministers must consult such persons as they consider appropriate.
- (4) Regulations under subsection (1) may—
  - (a) make incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) make different provision for different purposes,
  - (c) modify any enactment (including this Act).
- (5) Regulations under this section that add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.
- (6) Otherwise, regulations under this section are subject to the negative procedure.
- (7) In this section, “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.”.

## **5 Entering of parks in valuation roll**

- (1) Section 19 of the 1963 Act (certain parks not to be entered in the valuation roll) is amended as follows.
- (2) In subsection (1)—
  - (a) for “Subject to subsections (1A) and (1B) below,” substitute “This section applies to”,
  - (b) for “and any building” substitute “including in each case any building”,
  - (c) the words “, shall not be entered in the valuation roll” are repealed.
- (3) For subsections (1A) to (1C) substitute—
  - “(1ZA) An entry is to be made in the roll in respect of any part of the lands and heritages which falls within either subsection (1ZB) or (1ZC).
  - (1ZB) A part falls within this subsection if the part is occupied by a person or body other than the person or body mentioned in paragraph (a) or, as the case may be, (b) of subsection (1).
  - (1ZC) A part falls within this subsection if—

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- (a) the part is occupied by the person or body mentioned in paragraph (a) or, as the case may be, (b) of subsection (1), and
- (b) persons may be required to pay for access to facilities on the part or for goods or services provided on it.

(1ZD) The remainder of the lands and heritages is not to be entered in the roll.”.

## **6 Discretion of local authority to determine whether lands and heritages are dwellings**

In section 72 of the Local Government Finance Act 1992 (dwellings chargeable to council tax), after subsection (4) insert—

“(4A) Where regulations under subsection (4) prescribe a class, the regulations may confer discretion on a local authority to determine, in such circumstances as may be prescribed, whether particular lands and heritages fall within that class.”.

## **7 Agreement as to valuation**

In section 1 of the 1975 Act (the valuation roll and revaluation), after subsection (3) insert—

“(3A) Subsection (3B) applies where the assessor and the proprietor, tenant or occupier of lands and heritages have reached an agreement in writing as to the details to be included in the entry in the valuation roll for the lands and heritages (whether that agreement was reached before or after the draft valuation roll was published under section 1B(1)).

(3B) The assessor must include those details in the entry for the lands and heritages, unless, since the agreement was reached, there has been an alteration in the value of the lands and heritages due to a material change of circumstances.”.

## **8 Draft valuation roll and draft valuation notices**

After section 1A of the 1975 Act insert—

### **“1B Draft valuation roll and draft valuation notices**

- (1) Before making up a valuation roll under section 1(1), an assessor must—
  - (a) publish a draft of the roll, and
  - (b) send a draft valuation notice to each person who is a proprietor, tenant or occupier of lands and heritages entered in the draft valuation roll.
- (2) A draft valuation notice is a notice setting out—
  - (a) the details included in the entry for the lands and heritages in the draft valuation roll,
  - (b) the effect of subsections (3) and (4), and
  - (c) such other information as—
    - (i) the Scottish Ministers may specify in regulations, or
    - (ii) the assessor considers appropriate.

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- (3) A person who receives a draft valuation notice may make representations to the assessor as to the details to be included in the entry for the lands and heritages in the valuation roll when it is made up under section 1(1).
- (4) When the assessor makes up the valuation roll under section 1(1), the assessor may include details in an entry for lands and heritages which are different to those included in the entry for the lands and heritages in the draft valuation roll, whether as a result of representations made under subsection (3) or otherwise (but see also section 1(3A) and (3B)).
- (5) Regulations under subsection (2)(c)(i)—
  - (a) may make different provision for different purposes,
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (6) Regulations under subsection (2)(c)(i) are subject to the negative procedure.”.

## **9 Valuation notices**

In section 3 of the 1975 Act (provisions supplementary to sections 1 and 2)—

- (a) after subsection (2) insert—
  - “(2ZA) A notice under subsection (2)—
    - (a) must include such information in relation to the rateable value included in the entry to which the notice relates as the Scottish Ministers may specify in regulations,
    - (b) may include such other information as the assessor considers appropriate.
  - (2ZB) The assessor may send a notice under subsection (2) by electronic means if—
    - (a) the assessor and the recipient of the notice have, before the notice is sent, agreed in writing that the assessor may send such a notice to the recipient by transmission to an electronic address and in an electronic form specified by the recipient for that purpose, and
    - (b) the notice is sent to that address in that form.”,
- (b) after subsection (5) insert—
  - “(6) Regulations under subsection (2ZA)(a)—
    - (a) may make different provision for different purposes,
    - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
  - (7) Regulations under subsection (2ZA)(a) are subject to the negative procedure.”.

## **10 Proposals to alter, and appeals against, valuation roll**

- (1) The 1975 Act is amended as follows.
- (2) In section 2 (alterations to valuation roll which is in force)—
  - (a) in subsection (1A), after “following” insert—

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- “(a) a proposal being made under section 3ZA(1), or  
(b)”
- (b) in subsection (2)(cc), for “an appeal by virtue of section 3(2A) of this Act” substitute “a proposal made by virtue of section 3ZA(2)(b) or an appeal under section 3ZB(1) in relation to such a proposal”,
- (c) after subsection (3) insert—
  - “(3A) Where an appeal has been made to the valuation appeal committee in relation to the entry, subsection (3) applies only if the appeal has been withdrawn.”
- (3) In section 3 (provisions supplementary to sections 1 and 2)—
  - (a) in subsection (2), the words from “; and any such person” to the end are repealed,
  - (b) subsections (2A), (2B), (4) and (4A) are repealed,
  - (c) in subsection (5), after “pending” insert “proposal under section 3ZA(1),”.
- (4) After section 3 insert—

**“3ZA Proposal to alter entry in valuation roll**

- (1) The proprietor, tenant or occupier of lands and heritages may make a proposal to the assessor who has the function of valuing the lands and heritages to alter the entry for those lands and heritages in the valuation roll in accordance with this section.
- (2) A proposal may be made in relation to an entry—
  - (a) where the proprietor, tenant or occupier receives a notice under section 3(2) in relation to the entry, other than a notice sent following an alteration to the valuation roll under—
    - (i) section 2(1A) as a result of a proposal or appeal made by the proprietor, tenant or (as the case may be) occupier, or
    - (ii) section 2(3) as a result of an agreement between the proprietor, tenant or (as the case may be) occupier and the assessor,
  - (b) where a person becomes the proprietor, tenant or occupier of the lands and heritages to which the entry relates,
  - (c) on the ground that, since the entry was made, there has been a material change of circumstances,
  - (d) on the ground that there is an error in the entry of the type referred to in section 2(1)(f).
- (3) A person may not make a proposal in pursuance of subsection (2)(a) where—
  - (a) the notice under section 3(2) relates to an entry included in the valuation roll when it was made up under section 1(1), and
  - (b) the details included in the entry are in accordance with an agreement in writing between that person and the assessor as to the details to be included in the entry.
- (4) A proposal may be made in pursuance of subsection (2)(b) whether or not any previous proprietor, tenant or occupier of the lands and heritages—
  - (a) reached an agreement with the assessor in relation to the entry,

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- (b) made a proposal to the assessor in relation to the entry,
  - (c) appealed to the valuation appeal committee in relation to the entry.
- (5) A proposal must—
  - (a) be made in writing,
  - (b) set out how the person making the proposal wants the assessor to alter the entry.
- (6) The assessor may decide—
  - (a) to alter the entry in accordance with—
    - (i) the proposal, or
    - (ii) an agreement in writing between the assessor and the person who made the proposal reached after the proposal was made,
  - (b) to alter the entry other than in accordance with the proposal or such an agreement (including by either increasing or decreasing the rateable value shown in the entry),
  - (c) not to alter the entry.
- (7) The Scottish Ministers may by regulations make provision for or about—
  - (a) the period within which a proposal may be made,
  - (b) the form in which a proposal is to be made,
  - (c) information to be included in, and documents to be submitted with, a proposal,
  - (d) notices to be sent by an assessor to the person who made the proposal or any other person with an interest in the lands and heritages to which the proposal relates,
  - (e) fees payable in connection with a proposal (including provision about circumstances in which a fee may be repaid),
  - (f) the day from which an alteration made to an entry in the valuation roll following a decision under subsection (6)(a) or (b) is to have effect,
  - (g) such other matters in connection with the making of a proposal as the Scottish Ministers consider appropriate.
- (8) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (7)(e) before the Scottish Parliament, the Scottish Ministers must consult—
  - (a) such person or persons as appear to the Scottish Ministers to represent the interests of—
    - (i) local authorities,
    - (ii) assessors,
    - (iii) the business sector, and
    - (iv) other ratepayers,as the Scottish Ministers consider appropriate,
  - (b) such other persons as they consider appropriate.
- (9) Regulations under subsection (7)—
  - (a) may make different provision for different purposes,
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) Regulations under subsection (7) are subject to—

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- (a) the affirmative procedure, if they make provision under subsection (7) (e),
- (b) otherwise, the negative procedure.

(11) In this section and section 3ZB, “proposal” means a proposal made under subsection (1).

### **3ZB Appeal to valuation appeal committee**

- (1) A person who is the proprietor, tenant or occupier of lands and heritages may appeal to the valuation appeal committee—
- (a) against a decision of the assessor, in relation to a proposal made by the person, under section 3ZA(6)(b) or (c),
  - (b) if—
    - (i) the person has made a proposal in relation to the entry,
    - (ii) the period set out in regulations under subsection (7)(a) for an appeal to be made has begun, and
    - (iii) the assessor has not made a decision under section 3ZA(6).
- (2) An appeal under subsection (1)(b) is to be treated as if it were an appeal against a decision under section 3ZA(6)(c).
- (3) An appeal under subsection (1)—
- (a) must be made within the period set out in regulations under subsection (7)(a) (and the valuation appeal committee may not allow it to be made after the end of that period),
  - (b) may be withdrawn only with the permission of the valuation appeal committee (whether or not the appellant and the assessor have reached an agreement as to the alteration of the entry to which the appeal relates).
- (4) On an appeal under subsection (1), the valuation appeal committee—
- (a) is to decide what alterations (if any) the assessor is to make to the entry,
  - (b) may (in particular) decide that the rateable value shown in the entry is to be either increased or decreased.
- (5) Subsection (6) applies where—
- (a) an appeal under subsection (1) relates to a proposal made in pursuance of section 3ZA(2)(c), and
  - (b) it is proved that there has been a change of circumstance which has materially reduced the extent to which beneficial occupation of the lands and heritages to which the appeal relates can be enjoyed.
- (6) The valuation appeal committee may decide that the entry is to be altered even if it is not proved that the change of circumstances has affected the value of the lands and heritages to any specific extent.
- (7) The Scottish Ministers may by regulations make provision for or about—
- (a) the period within which an appeal under subsection (1) is to be made,
  - (b) information to be included in, and documents to be submitted with, such an appeal,



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- (c) circumstances in which such an appeal may be made only with the permission of the valuation appeal committee,
  - (d) fees payable in connection with such an appeal (including provision about circumstances in which a fee may be repaid),
  - (e) the procedure to be followed in such an appeal (including evidence which may be led),
  - (f) the period within which such an appeal is to be disposed of,
  - (g) such other matters in connection with such appeals as the Scottish Ministers consider appropriate.
- (8) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (7)(d) before the Scottish Parliament, the Scottish Ministers must consult—
- (a) such person or persons as appear to the Scottish Ministers to represent the interests of—
    - (i) local authorities,
    - (ii) assessors,
    - (iii) the business sector, and
    - (iv) other ratepayers,as the Scottish Ministers consider appropriate,
  - (b) such other persons as they consider appropriate.
- (9) Regulations under subsection (7)—
- (a) may make different provision for different purposes,
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) Regulations under subsection (7) are subject to—
- (a) the affirmative procedure, if they make provision under subsection (7)(d),
  - (b) otherwise, the negative procedure.”.

## **11 Proposals and appeals: consequential modifications**

- (1) In section 13 of the 1956 Act (times for giving notices etc.), after subsection (3) insert—
- “(3A) This section does not apply to any notice or thing required to be given or done in relation to—
- (a) a proposal under section 3ZA of the Local Government (Scotland) Act 1975,
  - (b) an appeal under section 3ZB of that Act.”.
- (2) In section 15(2) of the 1963 Act (proceedings in appeals), after “committees” where it second occurs insert “other than appeals under section 3ZB of the Local Government (Scotland) Act 1975”.

## **12 Restriction on making complaints**

- In section 13 of the 1854 Act (complaints with regard to valuations)—
- (a) the existing text becomes subsection (1),

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(b) after that subsection insert—

“(2) A person may not make a complaint as mentioned in subsection (1) in respect of lands and heritages of which the person is the proprietor, tenant or occupier.”.

### **13 Meaning of “material change of circumstances”**

In section 37 (interpretation) of the 1975 Act, in the definition of “material change of circumstances”—

(a) the words from “and, without prejudice to” to the end become paragraph (a), and

(b) after that paragraph insert—

“(b) but does not include any change—

(i) in the rent of the lands and heritages (or any other lands and heritages), or

(ii) in the level of valuations generally or in the value of lands and heritages generally.”.