



Non-Domestic Rates (Scotland) Act 2020

2020 asp 4

PART 3

INFORMATION NOTICES AND NOTIFICATIONS OF CHANGES OF CIRCUMSTANCES

26 Assessor information notices

- (1) An assessor may give an assessor information notice to—
 - (a) any person who the assessor thinks is a proprietor, tenant or occupier of the lands and heritages referred to in the notice,
 - (b) any other person who the assessor thinks has information which is reasonably required for the purpose mentioned in subsection (2).
- (2) In this Part, an “assessor information notice” is a notice in writing requiring the person to provide the assessor with such information as the assessor may reasonably require for the purpose of exercising the assessor’s functions relating to non-domestic rates in relation to the lands and heritages referred to in the notice.
- (3) A person to whom an assessor information notice is given must comply with the notice within the period of 28 days beginning with the day on which the notice is given.
- (4) Nothing in this section requires a person to provide anything in respect of which a claim to confidentiality of communications could be maintained in legal proceedings.
- (5) Section 7 of the 1854 Act is repealed.

27 Local authority information notices

- (1) An authorised officer of a local authority may give to any person who the officer thinks is the proprietor, tenant or occupier of lands and heritages a notice in writing (in this Part, a “local authority information notice”) requiring the person to provide the local authority with such information as it may reasonably require for the purpose of issuing any demand or other document relating to non-domestic rates in respect of those lands and heritages.
- (2) A person to whom a local authority information notice is given must comply with the notice within the period of 21 days beginning with the day on which the notice is given.

- (3) If the person fails to comply (in whole or in part) with the notice within that period, the authorised officer may give the person a further local authority information notice in respect of the information required by the notice given under subsection (1).
- (4) Subsections (2) and (3) apply in relation to a further notice given under subsection (3) as they apply in relation to a notice given under subsection (1).
- (5) In this section and sections 33 and 34, an “authorised officer”, in relation to a local authority, means a person authorised in writing by the local authority for the purposes of this section and section 33.

28 Duty to notify changes of circumstances

- (1) Subsection (2) applies to a person who—
 - (a) is liable to pay non-domestic rates in respect of any lands and heritages, or
 - (b) would be liable to pay non-domestic rates in respect of any lands and heritages if they were payable.
- (2) The person must notify the local authority to which the rates are, or would be, payable of any relevant change in circumstances.
- (3) A “relevant change in circumstances” means a change in the circumstances of the person, or of the lands and heritages, which the person knows, or might reasonably be expected to know, would affect—
 - (a) whether or not non-domestic rates are chargeable in respect of the lands and heritages,
 - (b) the amount of non-domestic rates payable in respect of them.
- (4) A notification must be made within the period of 42 days beginning with the day on which the relevant change in circumstances occurs.

29 Offences in relation to information notices and notifications under section 28

- (1) A person commits an offence if the person knowingly provides false or misleading information in purported compliance with—
 - (a) an assessor information notice, or
 - (b) a local authority information notice.
- (2) A person commits an offence if the person knowingly provides false or misleading information in a notification under section 28(2).
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

30 Civil penalties for failure to comply with assessor information notices

- (1) If a person fails to comply with an assessor information notice within the period mentioned in section 26(3), the person is liable to pay a penalty.
- (2) Where a person becomes liable to a penalty, the assessor must give a notice to the person (a “penalty notice”) stating—
 - (a) that the person has failed to comply with the assessor information notice,

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- (b) that the person is liable to a penalty determined in accordance with subsection (3),
 - (c) the effect of subsections (4) and (5), and
 - (d) that the person has a right of appeal under section 31(1).
- (3) For the purposes of subsection (2)(b)—
 - (a) where the lands and heritages concerned are entered in the valuation roll, the penalty is the greater of—
 - (i) £200, and
 - (ii) 1% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,
 - (b) where the lands and heritages concerned are not so entered, the penalty is £1,000.
- (4) If the person fails to comply with the assessor information notice within the period of 42 days beginning with the day on which the penalty notice is given, the person is liable—
 - (a) where the lands and heritages concerned are entered in the valuation roll, to a further penalty of the greater of—
 - (i) £1,000, and
 - (ii) 20% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,
 - (b) where the lands and heritages concerned are not so entered, to a further penalty of £10,000.
- (5) If the person fails to comply with the assessor information notice within the period of 56 days beginning with the day on which the penalty notice is given, the person is liable—
 - (a) where the lands and heritages concerned are entered in the valuation roll, to a further penalty of the greater of—
 - (i) £1,000, and
 - (ii) 50% of the rateable value of the lands and heritages concerned for the day on which the penalty notice is given,
 - (b) where the lands and heritages are not so entered, to a further penalty of £50,000.
- (6) For the purposes of subsections (3), (4) and (5)—
 - (a) the lands and heritages concerned are the lands and heritages in respect of which the assessor information notice was given, and
 - (b) in a case where subsection (3)(a), (4)(a) or (5)(a) applies, the valuation roll is to be used to find the rateable value of the lands and heritages for the day.
- (7) An assessor may mitigate or remit any penalty under this section.
- (8) The Scottish Ministers may by regulations modify the penalties to which a person may become liable under this section, including by increasing or decreasing any sum or percentage for the time being set out in subsections (3), (4) or (5) or by otherwise modifying the way in which any penalty is determined.
- (9) Regulations under subsection (8) may make transitional, transitory or saving provision.
- (10) Regulations under subsection (8) are subject to the affirmative procedure.

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- (11) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (8) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.
- (12) The Scottish Ministers may by regulations make further provision about penalty notices under this section, including in particular—
 - (a) the form of penalty notices,
 - (b) how penalty notices may be given (for example, enabling a notice to be given to a person either by name or by such description as may be set out in the regulations).
- (13) Regulations under subsection (12)—
 - (a) may make different provision for different purposes,
 - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (14) Regulations under subsection (12) are subject to the negative procedure.

31 Penalties under section 30: appeals and enforcement

- (1) A person who is given a penalty notice under section 30 may appeal to a valuation appeal committee against the imposition of the penalty.
- (2) An appeal must be made before the end of the period of 28 days beginning with the day on which the penalty notice is given.
- (3) The making of an appeal under subsection (1) against the imposition of a penalty—
 - (a) is to be treated as an appeal against the imposition of that penalty and any further penalty to which the appellant may be liable under section 30(4) or (5),
 - (b) does not prevent liability for any such further penalty arising.
- (4) On an appeal the valuation appeal committee may mitigate or remit any penalty under section 30 if it is satisfied on either or both of the grounds specified in subsection (5).
- (5) Those grounds are—
 - (a) that the person appealing had a reasonable excuse for not complying with the assessor information notice, or
 - (b) that the information required by the notice is not in the person's possession or control.
- (6) A penalty is recoverable as a civil debt due to the assessor.
- (7) The Scottish Ministers may by regulations make further provision about appeals under this section, including in particular—
 - (a) information to be included in, and documents to be submitted with, such an appeal,
 - (b) whether the penalty to which such an appeal relates, and any further penalty under section 30(4) or (5), is payable while the appeal is outstanding,
 - (c) the procedure to be followed in such an appeal,
 - (d) the period within which such an appeal is to be disposed of.
- (8) Regulations under subsection (7)—
 - (a) may make different provision for different purposes,

- (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (9) Regulations under subsection (7) are subject to the negative procedure.
- (10) Before making regulations under subsection (7), the Scottish Ministers must consult such persons as they consider appropriate.

32 Payment of penalties into the Scottish Consolidated Fund

- (1) An assessor must pay any money recovered under or by virtue of section 30 into the Scottish Consolidated Fund.
- (2) But an assessor may do so after deduction of reasonable expenses incurred in relation to the giving of penalty notices under section 30 and the collection of penalties.
- (3) The Scottish Ministers may by regulations make provision about the expenses that may be deducted under subsection (2).
- (4) Regulations under subsection (3) are subject to the negative procedure.

33 Civil penalties for failure to comply with local authority information notices and for failure to notify changes in circumstances

- (1) A person is liable to pay a penalty if the person—
 - (a) fails to comply with a local authority information notice within the period mentioned in section 27(2),
 - (b) fails to comply with section 28(2) within the period mentioned in section 28(4).
- (2) Where a person becomes liable to a penalty under subsection (1)(a), the authorised officer must give a notice to the person (a “penalty notice”) stating—
 - (a) that the person has failed to comply with the local authority information notice,
 - (b) that the person is liable to a penalty of—
 - (i) £95, where the penalty relates to a notice given under section 27(1),
 - (ii) £370, where the penalty relates to a notice given under section 27(3),and
 - (c) that the person has a right of appeal under section 34(1).
- (3) Where a person becomes liable to a penalty under subsection (1)(b), the authorised officer must give a notice to the person (a “penalty notice”) stating—
 - (a) that the person has failed to comply with section 28(2),
 - (b) that the person is liable to pay a penalty of £370, and
 - (c) that the person has a right of appeal under section 34(1).
- (4) An authorised officer may mitigate or remit any penalty under this section.
- (5) The Scottish Ministers may by regulations make provision increasing or decreasing any sum for the time being set out in subsections (2)(b)(i) and (ii) and (3)(b).
- (6) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (5) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

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- (7) Regulations under subsection (5) may make transitional, transitory or saving provision.
- (8) Regulations under subsection (5) are subject to the affirmative procedure.
- (9) The Scottish Ministers may by regulations make further provision about penalty notices under this section, including in particular—
 - (a) the form of penalty notices,
 - (b) how penalty notices may be given (for example, enabling a notice to be given to a person either by name or by such description as may be set out in the regulations).
- (10) Regulations under subsection (9)—
 - (a) may make different provision for different purposes,
 - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (11) Regulations under subsection (9) are subject to the negative procedure.

34 Penalties under section 33: appeals

- (1) A person who is given a penalty notice under section 33 may appeal to a valuation appeal committee against the amount of penalty imposed.
- (2) An appeal must be made before the end of the period of 28 days beginning with the day on which the penalty notice is given.
- (3) The making of an appeal under subsection (1) against the amount of penalty imposed by a penalty notice given under section 33(2)—
 - (a) is to be treated as an appeal against the amount of that penalty and any other penalty imposed on the appellant under section 33 in relation to the information to which the penalty notice relates,
 - (b) does not prevent an authorised officer giving the appellant a further local authority information notice under section 27(3) or penalty notice under section 33 in relation to that information.
- (4) On an appeal the valuation appeal committee may mitigate or remit any penalty under section 33 if it is satisfied that the penalty is excessive.
- (5) The Scottish Ministers may by regulations make further provision about appeals under this section, including in particular—
 - (a) information to be included in, and documents to be submitted with, such an appeal,
 - (b) the procedure to be followed in such an appeal,
 - (c) the period within which such an appeal is to be disposed of.
- (6) Regulations under subsection (5)—
 - (a) may make different provision for different purposes,
 - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (7) Regulations under subsection (5) are subject to the negative procedure.

- (8) Before making regulations under subsection (5), the Scottish Ministers must consult such persons as they consider appropriate.

35 Penalties under section 33: enforcement

- (1) A penalty under section 33 is recoverable as a civil debt due to the local authority.
- (2) The Scottish Ministers may by regulations make further provision about the collection of penalties imposed under section 33.
- (3) Regulations under subsection (2) may in particular—
- (a) provide for penalties to be included in a demand note or an adjustment to a demand note under section 8 of the 1975 Act (payment of rates by instalments) as if they were a liability to rates,
 - (b) provide that, where an appeal is made against the imposition of a penalty, the penalty is not payable while the appeal is outstanding,
 - (c) make provision for cases where the penalty is mitigated or remitted, and may in particular provide for the reimbursement of a penalty by way of deduction from a sum due.
- (4) Regulations under subsection (2)—
- (a) may modify any enactment (including this Act),
 - (b) may make different provision for different purposes,
 - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (5) Regulations under subsection (2) are subject to—
- (a) the affirmative procedure, if they add to, replace or omit any part of the text of an Act,
 - (b) otherwise, the negative procedure.

36 Sections 31 and 34: consequential modifications

- (1) In section 13 of the 1956 Act (times for giving notices etc.), after subsection (3A) (inserted by section 11(1)) insert—
- “(3B) This section does not apply to any notice or thing required to be given or done in relation to an appeal under section 31 or 34 of the Non-Domestic Rates (Scotland) Act 2020.”.
- (2) In section 15(2) of the 1963 Act (proceedings in appeals), after “1975” (inserted by section 11(2)) insert “or appeals under section 31 or 34 of the Non-Domestic Rates (Scotland) Act 2020”.