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WELSH STATUTORY INSTRUMENTS

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**2005 No. 758**

**The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005**

**PART 2**

Alteration of Local Rating Lists

**Interpretation: Part 2**

3.—(1) In this Part —

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

“list” means a local non-domestic rating list compiled on or after 1 April 2005;

“material change of circumstances”, in relation to a hereditament, means a change in any of the matters mentioned in paragraph 2(7) of Schedule 6 to the Act;

“valuation officer”, in relation to a list, means the valuation officer for the authority for which the list is compiled and maintained.

**Circumstances in which proposals may be made**

4.—(1) The grounds for making a proposal to alter a list are as follows —

- (a) the rateable value shown in the list for a hereditament was inaccurate on the day the list was compiled;
- (b) the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the day on which the list was compiled;
- (c) the rateable value shown in the list for a hereditament is inaccurate by reason of an amendment to the classes of plant and machinery set out in the Schedule to the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000(1) which comes into force on or after the day on which the list was compiled;
- (d) the rateable value shown in the list for a hereditament by reason of an alteration made by a valuation officer is or has been inaccurate;
- (e) the rateable value or any other information shown in the list for a hereditament is shown, by reason of a decision in relation to another hereditament of a valuation tribunal, the Lands Tribunal or a court determining an appeal or application for review from a valuation tribunal or the Lands Tribunal, to be or to have been inaccurate;
- (f) the day from which an alteration is shown in the list as having effect is wrong;
- (g) a hereditament not shown in the list ought to be shown in that list;
- (h) a hereditament shown in the list ought not to be shown in that list;

- (i) the list should show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does not do so;
  - (j) the list should not show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does so;
  - (k) property which is shown in the list as more than one hereditament ought to be shown as one or more different hereditaments;
  - (l) property which is shown in the list as one hereditament ought to be shown as more than one hereditament;
  - (m) the address shown in the list for a hereditament is wrong;
  - (n) the description shown in the list for a hereditament is wrong; and
  - (o) any statement required to be made about the hereditament under section 42 of the Act has been omitted from the list.
- (2) Subject to paragraph (3) —
- (a) an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1) exists;
  - (b) a relevant authority may make a proposal where it has reason to believe that one of the grounds set out in paragraph (1)(b), (e) and (g) to (j) exists; and
  - (c) a person who is not an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1)(c), (d) or (f) exists if that person was an interested person at any time during which the alteration or amendment in question had effect.
- (3) No proposal may be made —
- (a) by reference to more than one ground unless, for each of the grounds relied upon, the material day and the effective date are the same;
  - (b) by an interested person, where —
    - (i) that person (or a person having a qualifying connection with that person) has made a proposal to alter the same list in relation to the same hereditament on the same ground and arising from the same event;
    - (ii) a proposal to alter the list in relation to the same hereditament and arising from the same facts has been made by another person (excluding a person having a qualifying connection with the interested person) and has been considered and determined by a valuation tribunal (otherwise than as mentioned in regulation 30(4)) or, on appeal under regulation 37, by the Lands Tribunal;
  - (c) on the ground set out in paragraph (1)(d), to the extent that the alteration in question gives effect to the decision of a valuation tribunal, the Lands Tribunal or a court determining an appeal or an application for a review from a valuation tribunal or Lands Tribunal in relation to the hereditament concerned.
- (4) In paragraph (3) —
- (a) “effective date” means the day from which the alteration, if made, would have effect in pursuance of this Part;
  - (b) “event” means the compilation of the list, a material change of circumstances or an alteration of the list by the valuation officer; and

- (c) “material day”, in relation to a hereditament, is the day determined by the rules in regulations under paragraph 2(6A) of Schedule 6 to the Act(2).

### **Periods in which proposals may be made: 2005 list and subsequent lists**

5.—(1) Subject to paragraph (2), a proposal to alter a list compiled on or after 1 April 2005 may be made at any time before the day on which the next list is compiled.

(2) A proposal on the ground set out in —

- (a) regulation 4(1)(d) or (f) may only be made before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later;
- (b) regulation 4(1)(e) may only be made within six months of the day on which the next list is compiled.

### **Proposals: general**

6.—(1) A proposal shall be made by notice in writing served on the valuation officer which must —

- (a) state the name and address of the proposer;
- (b) state whether the proposer is, in respect of the property —
- (i) the interested person;
  - (ii) the relevant authority; or
  - (iii) a person described in regulation 4(2)(c);
- (c) identify the property to which the proposal relates;
- (d) identify the respects in which it is proposed that the list be altered; and
- (e) include —
- (i) a statement of the grounds for making the proposal and, in the case of a proposal made on any of the grounds set out in regulation 4(1)(a), (c) or (g) to (o), a statement of the reasons for believing that those grounds exist;
  - (ii) in the case of a proposal made on the ground set out in regulation 4(1)(b), a statement of the nature of the change in question and of the date on which the proposer believes the change occurred;
  - (iii) in the case of a proposal made on the ground set out in regulation 4(1)(d) or (f), a statement identifying the alteration in question, whether by reference to the day on which the alteration was made or otherwise;
  - (iv) in the case of a proposal made on the ground set out in regulation 4(1)(e), the information specified in paragraph (2);
  - (v) in the case of a proposal made on the ground set out in regulation 4(1)(f), a statement of the day proposed in place of the day shown in the list; and
  - (vi) in the case of proposal made on one of the grounds set out in regulation 4 (1)(a) to (g), and (i) and (l), in respect of a hereditament occupied under a lease, easement or licence to occupy, the information specified in paragraph (3).
- (2) The information required by paragraph (1)(e)(iv) is —
- (a) the identity of the hereditament to which the decision in question relates;
  - (b) the name of the tribunal or court which made the decision;

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(2) Paragraph 2(6A) was inserted by paragraph 38 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42) and substituted by paragraph 4 of Schedule 10 to the Local Government Finance Act 1992 (c. 14).

- (c) the date of the decision;
  - (d) the reasons for believing that the decision is relevant to the rateable value or other information to which the proposal relates; and
  - (e) the reasons for believing, in the light of the decision, that the rateable value or other information to which the proposal relates is inaccurate.
- (3) The information required by paragraph (1)(e)(vi) is the amount payable each year, as at the date of the proposal, in respect of the lease, easement or licence to occupy.
- (4) A proposal may deal with more than one hereditament only —
- (a) if it is made on the grounds set out in regulation 4(1)(k) or (l); or
  - (b) where the person making the proposal does so in the same capacity as respects each hereditament and each hereditament is within the same building or the same curtilage.
- (5) A proposal made on the grounds set out in regulation 4(1)(d) or (f) may include a request for either or both of the following —
- (a) the restoration of the list to its state before the alteration was made; and
  - (b) a further alteration of the list in respect of the hereditament.

#### **Acknowledgement of proposals by valuation officer**

7.—(1) Subject to paragraph (2), within the period of four weeks beginning with the day on which he receives a proposal, the valuation officer must by notice in writing served on the proposer acknowledge its receipt.

(2) Paragraph (1) does not apply where a valuation officer serves a notice under regulation 8 in respect of the proposal.

(3) 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 9 to 13.

#### **Invalid proposals**

8.—(1) Where the valuation officer is of the opinion that a proposal has not been validly made, the valuation officer may within four weeks of its service on the valuation officer serve notice (an “invalidity notice”) on the proposer that the valuation officer is of that opinion, and stating —

- (a) the reasons for that opinion, and
- (b) the effect of paragraphs (3) to (6).

(2) The valuation officer may at any time withdraw an invalidity notice by serving notice in writing on the proposer; and on such withdrawal any appeal against the invalidity notice shall be treated as having been withdrawn.

(3) Unless an invalidity notice has been withdrawn in accordance with paragraph (2), the proposer may, within four weeks of its service on him,

- (a) subject to paragraph (4), make a further proposal in relation to the same property, notwithstanding the previous expiry of any period applicable under regulation 5, or
- (b) appeal against the notice to the relevant valuation tribunal.

(4) No proposal may be made under paragraph (3)(a) where the proposal to which the invalidity notice relates was made —

- (a) under paragraph (3)(a); or
- (b) after the expiry of any period applicable under regulation 5.

(5) Where a proposal is made under paragraph (3)(a), the proposal in respect of which the invalidity notice was served shall be treated as withdrawn.

(6) An appeal against an invalidity notice shall be initiated by serving notice of disagreement on the valuation officer.

(7) Unless the valuation officer withdraws the invalidity notice within four weeks of the service of the notice under paragraph (6), on the expiry of that period the valuation officer must inform the clerk of the relevant valuation tribunal of —

- (a) the entry in the list (if any) which it is proposed to alter;
- (b) the grounds on which the proposal was made; and
- (c) the reasons for the valuation officer's opinion that the proposal has not been validly made.

(8) Where information relating to an invalidity notice has been supplied in accordance with paragraph (7) and the notice is withdrawn, the valuation officer must, as soon as practicable, inform the clerk of the relevant valuation tribunal of the withdrawal.

(9) Until it is finally decided that the proposal to which an invalidity notice relates was validly made, regulations 9 to 13 shall not apply in relation to the proposal; and where it is finally decided as so mentioned, those regulations shall have effect as if the proposal had been served on the valuation officer on the date of that final decision.

(10) For the purposes of paragraph (9), a final decision is made —

- (a) where the invalidity notice is withdrawn, on the day of the withdrawal;
- (b) in any other case, on the day on which —
  - (i) the valuation tribunal having determined the appeal, the period within which an appeal may be made to the Lands Tribunal under regulation 37 expires without such an appeal being made; or
  - (ii) the Lands Tribunal gives a decision on appeal under regulation 37.

(11) Nothing done under this regulation shall be construed as preventing any party to an appeal under regulation 13 from contending for the purposes of that appeal that the proposal to which the appeal relates was not validly made.

### **Procedure subsequent to the making of proposals**

**9.—(1)** Within the period of six weeks beginning on the day on which a proposal is served on the valuation officer, the valuation officer must serve a copy of the proposal on each of the following provided that person is not the proposer —

- (a) any ratepayer in relation to any hereditament to which the proposal relates; and
- (b) the relevant authority, where that authority —
  - (i) is a special authority, or
  - (ii) has served notice on the valuation officer that it wishes to receive a copy of a class or classes of proposal, and the proposal falls within any such class.

(2) Each copy of a proposal served on a ratepayer shall be accompanied by a statement of the effect of this regulation and regulations 10 to 13.

### **Proposals agreed by valuation officer**

**10.** Where the valuation officer is of the opinion that a proposal is well-founded, the valuation officer must as soon as reasonably practicable alter the list accordingly.

### **Withdrawal of proposals**

**11.**—(1) Subject to paragraph (2), the proposer may withdraw the proposal by notice in writing served on the valuation officer.

(2) A proposal may not be withdrawn where the proposer was a ratepayer in respect of the hereditament at the date of the proposal but is no longer, unless the person who currently is the ratepayer agrees in writing.

(3) Where —

(a) within the period of two months beginning on the day on which a proposal is served on the valuation officer an interested person serves notice in writing on the valuation officer that they wish to be a party to the proceedings in respect of that proposal; and

(b) after service of such a notice the proposal is withdrawn in accordance with this regulation, the valuation officer shall serve notice of that withdrawal on that interested person.

(4) Where, within the period of six weeks beginning on the day on which a notice under paragraph (3) is served on them, an interested person serves notice in writing on the valuation officer that they are aggrieved by the withdrawal of the proposal —

(a) the notice shall, if that person would at the date of the proposal have been competent to make that proposal, be treated for the purposes of the following provisions of these Regulations as if it had been a proposal in the same terms made on the day on which the notice was served; and

(b) any resulting alteration shall have effect from the day which would have been applicable had there been no withdrawal under this regulation.

### **Agreed alterations following proposals**

**12.**—(1) Where, following the making of the proposal all the persons mentioned in paragraph (2) agree on an alteration of the list in accordance with this Part in terms other than those contained in the proposal, and that agreement is signified in writing —

(a) subject to paragraph (4), the valuation officer must, not later than the expiry of the period of two weeks beginning on the day on which the agreement was made, alter the list to give effect to the agreement; and

(b) the proposal shall be treated as having been withdrawn.

(2) The persons referred to in paragraph (1) are —

(a) the valuation officer;

(b) the proposer;

(c) subject to paragraph (3), the occupier (at the date of the proposal) of any hereditament to which it relates;

(d) the ratepayer (at the date of the agreement) in relation to any hereditament to which it relates;

(e) subject to paragraph (3), any interested person or relevant authority who —

(i) would at the date of the proposal have been competent to make the proposal in question, and

(ii) has within the period of two months beginning on the day on which the proposal was served on the valuation officer served notice on them in writing indicating a wish to be party to proceedings in respect of the proposal.

(3) Where —

- (a) the occupier of the hereditament at the date of the proposal is no longer in occupation of any part of it at the date on which all the other persons mentioned in paragraph (2) have agreed as mentioned in paragraph (1), and the valuation officer has taken all reasonable steps to ascertain their whereabouts, but they have not been ascertained, or
- (b) any interested person who has given notice as mentioned in paragraph (2)(e) cannot be contacted at the address supplied to the valuation officer (whether in the notice or otherwise),

the agreement of that person under the foregoing provisions of this regulation shall not be required.

(4) Where the period of two weeks mentioned in paragraph (1)(a) would expire before the period of two months mentioned in paragraph (2)(e), the alteration required by paragraph (1)(a) shall, where no notice is served as mentioned in paragraph (2)(e), be made as soon as practicable after the expiry of that period of two months.

### **Disagreement as to proposed alteration**

**13.—**(1) Where the valuation officer is not of the opinion that a proposal is well-founded, and

- (a) the proposal is not withdrawn, and
- (b) there is no agreement as provided in regulation 12,

the disagreement, no later than the expiry of the period of three months beginning on the day on which the proposal was served on the valuation officer, must be referred by the valuation officer, as an appeal by the proposer against the valuation officer's refusal to alter the list, to the relevant valuation tribunal.

(2) A referral under paragraph (1) shall take place by means of the transmission to the clerk of the tribunal of a statement of the following matters —

- (a) the entry in the list (if any) which is proposed to be altered;
- (b) the date of service of the proposal;
- (c) the names and addresses (where known to the valuation officer) of all persons whose agreement is required by regulation 12; and
- (d) the grounds on which the proposal was made.

(3) The valuation officer must transmit to the clerk of the tribunal the name and address supplied to him by any other person who has given notice under regulation 2(3)(b)(ii) that they wish to be a party to the appeal.

### **Time from which alteration is to have effect: 2005 and subsequent lists**

**14.—**(1) Subject to regulation 34, this regulation has effect in relation to alterations to a list compiled on or after 1 April 2005.

(2) Subject to paragraphs (3) to (7), where an alteration is made to correct any inaccuracy in the list on or after the day it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred.

(3) Subject to paragraph (4), where an alteration is made to give effect to a completion notice, the alteration shall have effect from the day specified in the notice.

(4) Where under Schedule 4A to the Act a different day is—

- (a) substituted by a different notice under paragraph 1(3) of that Schedule;
- (b) agreed under paragraph 3 of that Schedule; or
- (c) determined in pursuance of an appeal under paragraph 4 of that Schedule,

the alteration shall have effect from the day so substituted, agreed or determined.

- (5) Where the day on which the relevant circumstances arose is not reasonably ascertainable —
- (a) where the alteration is made in pursuance of a proposal, the alteration shall have effect from the day on which the proposal was served on the valuation officer; and
  - (b) in any other case, the alteration shall have effect from the day on which it is made.
- (6) An alteration made to correct an inaccuracy (other than one which has arisen by reason of an error or default on the part of a ratepayer) —
- (a) in the list on the day it was compiled; or
  - (b) which arose in the course of making a previous alteration in connection with the matters mentioned in the foregoing paragraphs,

which increases the rateable value shown in the list for the hereditament to which the inaccuracy relates, shall have effect from the day on which the alteration is made.

(7) Where an alteration falls to be made after the first anniversary of the day on which the next list is compiled it shall have retrospective effect only if it is made in pursuance of a proposal.

### **Advertising rights**

**15.—**(1) For the purposes of regulation 14 where the circumstances giving rise to the alteration are the coming into existence of an advertising hereditament those circumstances shall be treated as occurring when —

- (a) any structure or sign is erected, after the right constituting the hereditament has been let out or reserved, to enable the right to be exercised; or
- (b) any advertisement is exhibited in pursuance of the right,

whichever is earlier; and such a hereditament shall be treated for the purposes of Part 3 of the Act as coming into occupation at that time.

(2) The erection, dismantling or alteration of any structure or sign for enabling the advertising right to be exercised, after the time mentioned in paragraph (1), shall be treated for the purposes of a proposal made on the grounds set out in regulation 4(1)(b) as a material change of circumstances.

(3) In this regulation —

- “advertising hereditament” means a hereditament consisting of a right to which section 64(2) of the Act applies;
- “advertising right” means a right which is such a hereditament; and
- “structure” includes a hoarding, frame, post or wall.

### **Effective date to be shown in the list**

**16.** Where an alteration is made, the list shall show the day from which the alteration is to have effect in pursuance of this Part.

### **Notification of alteration**

**17.—**(1) Within four weeks of altering a list a valuation officer must serve a notice in writing on the relevant authority stating the effect of the alteration; and the relevant authority must as soon as is reasonably practicable alter the copy of the list deposited by it at its principal office under section 41(6B) of the Act.

(2) Subject to paragraph (3), no later than the day on which the notice is served under paragraph (1) the valuation officer must serve a notice in writing on the ratepayer and on any proposer, as defined in paragraph (5), stating —

- (a) the effect of the alteration; and



- (b) subject to paragraph (4), the effect of the application of this Part, and of Part 5, in relation to the alteration.
- (3) Paragraph (2) does not apply in relation to alterations effected solely for the purpose of correcting a clerical error, or for reflecting —
  - (a) a change in the address of the hereditament concerned; or
  - (b) a change in the area of the relevant authority.
- (4) Paragraph (2)(b) does not apply in relation to an alteration effected for reflecting —
  - (a) a decision of the valuation officer that a proposal is well-founded;
  - (b) a decision, in relation to the hereditament which is the subject of the proposal, of a valuation tribunal or the Lands Tribunal or of a court determining an appeal or an application for review from a valuation tribunal or the Lands Tribunal; or
  - (c) an agreement under regulation 12.
- (5) The proposer mentioned in paragraph (2) is any proposer for whom an appeal in relation to the hereditament has been referred to the relevant valuation tribunal under regulation 13(1) and whose appeal has either —
  - (a) not been determined by that tribunal; or
  - (b) has been so determined and either —
    - (i) an appeal has been made to the Lands Tribunal under regulation 37 and that appeal has not been determined; or
    - (ii) the time for making an appeal to the Lands Tribunal under regulation 37 has not yet expired.
- (6) The valuation officer must take such steps as are reasonably practicable to secure that any notice under paragraph (2) is served not later than the corresponding notice under paragraph (1).