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STATUTORY INSTRUMENTS

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**1990 No. 582**

**The Non-Domestic Rating (Alteration  
of Lists and Appeals) Regulations 1990**

**PART V  
APPEALS**

**Interpretation**

**27.**—(1) In this Part—

“appeal”, unless the context otherwise requires, means an appeal under—

- (a) regulation 11, 16, 26 or 30; or
- (b) paragraph 4 of Schedule 4A to the Act<sup>(1)</sup>(in this Part called an “appeal against a completion notice”);

“clerk”, in relation to an appeal, means the clerk of the relevant valuation and community charge tribunal;

“list” means a local or central non-domestic rating list;

“tribunal”, unless the context otherwise requires, means the members of a valuation and community charge tribunal convened in accordance with this Part for the purpose of disposing of an appeal;

“the relevant valuation and community charge tribunal”, in relation to an appeal, means the valuation and community charge tribunal having jurisdiction in relation to the appeal in accordance with Parts II to IV of these Regulations.

(2) Any reference in this Part to a party to an appeal includes the person making the appeal and—

- (a) in relation to an appeal under regulation 11, 26 or 30, the valuation officer or, as the case may be, the central valuation officer;
- (b) in relation to an appeal under regulation 16, every person whose agreement is required under regulation 15;
- (c) in relation to an appeal against a completion notice, the charging authority.

**Jurisdiction: exception**

**28.** Where the appellant is a member of the relevant valuation and community charge tribunal, his appeal shall not be dealt with by that tribunal but by such other valuation and community charge tribunal as may be appointed for that purpose by the Secretary of State.

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(1) Schedule 4A is inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42)

### Appeals against completion notices

**29.**—(1) An appeal against a completion notice shall be initiated by serving on the clerk, within four weeks of the service of the notice or by 1st May 1990, whichever is the later, a notice in writing (a “notice of appeal”) accompanied by—

- (a) a copy of the completion notice, and
- (b) a statement of the grounds on which the appeal is made.

(2) The clerk shall, within two weeks of service of the notice of appeal, notify the appellant that he has received it, and shall serve a copy of the notice on the charging authority whose notice is the subject of the appeal.

### Appeals against certification

**30.**—(1) Where an interested person in relation to a hereditament in respect of which a value is certified by a valuation officer in pursuance of regulations under paragraphs 10 to 12 of Schedule 7A to the Act<sup>(2)</sup> is dissatisfied with the value so certified he may appeal against the certification in accordance with this regulation.

(2) An appeal under paragraph (1) shall be initiated by serving, before the expiry of six months beginning on the day of the certification, a notice on the valuation officer stating the appellant’s reasons for being dissatisfied.

(3) Unless, within four weeks of the date of the service of the notice of the appellant’s reasons under paragraph (2), either

- (a) the notice is withdrawn, or
- (b) the valuation officer and the appellant agree in writing as to the value which should be certified,

the disagreement shall at the expiry of that period be referred by the valuation officer to the relevant valuation and community charge tribunal as an appeal against that certification.

### Arrangements for appeals

**31.**—(1) It shall be the duty of the president of a valuation and community charge tribunal to secure that arrangements are made for appeals to be determined in accordance with the following provisions of these Regulations.

(2) A tribunal shall not hear an appeal under regulation 16 until any appeal under regulation 11 in respect of the same proposal has been determined.

(3) Where two or more appeals relating to the same hereditament or hereditaments are referred under regulation 16 or 26, the order in which the appeals are dealt with shall be the order in which the alterations in question would, but for the disagreements which occasion the appeals, have taken effect.

(4) Where an appeal under regulation 16 and an appeal under section 23 of the Act (community charges) relate to the same property—

- (a) the president of the valuation and community charge tribunal shall secure that the appeals are dealt with in such order as appears to him best designed to secure the interests of justice;
- (b) the community charges registration officer shall be joined as a party to the appeal under regulation 16, and
- (c) the valuation officer shall be joined as a party to the appeal under section 23.

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(2) Schedule 7A is inserted by paragraph 40 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42)

(5) The clerk shall as soon as is reasonably practicable give written notification to any person who is made a party to an appeal under paragraph (4).

### **Withdrawal**

**32.—**(1) An appeal may be withdrawn where, before the commencement of a hearing or of consideration of written representations, notice in writing to that effect is given to the clerk by—

- (a) the appellant, in the case of an appeal against a completion notice; and
- (b) every party to the appeal except the valuation officer in any other case.

(2) Where after the referral of an appeal under regulation 16 the valuation officer alters the list in accordance with the proposal, or there is an agreement under regulation 15 or 25, the valuation officer or, as the case may be, the central valuation officer shall notify the clerk accordingly, and the appeal shall be deemed to have been withdrawn.

### **Disposal by written representations**

**33.—**(1) An appeal may be disposed of on the basis of written representations if all the parties have given their agreement in writing.

(2) Where all the parties have given their agreement as mentioned in paragraph (1), the clerk shall serve notice on the parties accordingly; and within four weeks of service of such a notice on him each party may serve on the clerk a notice stating

- (a) his reasons or further reasons for believing the proposal to be well-founded, or for believing the list to be accurate, as the case may be; or
- (b) that he does not intend to make further representations.

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

(4) Any party on whom a notice is served under paragraph (3) may within four weeks of that service serve on the clerk a further notice stating his reply to the other party's statement, or that he does not intend to make further representations, as the case may be; and the clerk shall serve a copy of any such further notice on the other party or parties.

(5) After the expiry of four weeks beginning with the expiry of the period of four weeks mentioned in paragraph (4) the clerk shall submit copies of—

- (a) any information transmitted under regulation 16(2), and (b) any notice under paragraph (2) or (4)

to a tribunal constituted as provided in regulation 38.

(6) The tribunal to which an appeal is referred as provided in paragraph (5) may if it thinks fit—

- (a) require any party to furnish in writing further particulars of the grounds relied on and of any relevant facts or contentions;
- (b) require any party to attend to give evidence or produce documents; or
- (c) order that the appeal be disposed of on the basis of a hearing.

(7) Where a tribunal requires any party to furnish any particulars under paragraph (6)(a), it shall serve a copy of such particulars on every other party, and each such party may within four weeks of such service serve on the clerk any further statement he wishes to make in response.

(8) Where a tribunal requires any party to attend as provided in paragraph (6)(b) it shall notify all the other parties accordingly, and shall give each other party an opportunity to give evidence or produce documents in support or rebuttal of any evidence given or any document produced.

(9) Any party may at any time before an appeal is determined under this regulation by notice in writing served on the clerk withdraw his agreement under paragraph (1).

#### **Pre-hearing review**

**34.** With a view to clarifying the issues to be dealt with at a hearing a chairman appointed under regulation 8 of the Valuation and Community Charge Tribunals Regulations 1989~~(3)~~—

- (a) may on the application of a party or of his own motion, not less than four weeks after giving notice to the parties to that effect, order a pre-hearing review to be held; and
- (b) shall endeavour on the pre-hearing review to secure that all the parties make such admissions and agreements as ought reasonably to be made by them in relation to the proceedings.

#### **Notice of hearing**

**35.**—(1) Where an appeal is to be disposed of on the basis of a hearing, the clerk shall, not less than four weeks before the date in question, serve on the parties notice of the date, time and place appointed for the hearing.

(2) The clerk shall advertise the date, time and place appointed for any hearing by causing a notice giving such information to be affixed—

- (a) outside the office of the valuation and community charge tribunal, and
- (b) outside an office of the charging authority appointed by the authority for that purpose, or in another conspicuous place within that authority's area.

(3) The notice required by paragraph (2) shall name a place where a list of the appeals to be heard may be inspected.

#### **Disqualification from participating**

**36.**—(1) A person shall be disqualified from participating in the hearing or determination of, or acting as clerk or officer of a tribunal in relation to—

- (a) an appeal against a completion notice if he is a member of a relevant charging authority, or
- (b) an appeal under regulation 16, 26 or 30 if he is a member of a relevant special authority.

(2) In this regulation “relevant charging authority” and “relevant special authority” means a charging authority or special authority in whose area is situated the hereditament which is the subject of the appeal.

#### **Representation at the hearing**

**37.** Any party to an appeal which is to be decided at a hearing may appear in person (with assistance from any person if he wishes), by counsel or solicitor, or any other representative (other than a person who is a member, clerk or other employee of the valuation and community charge tribunal).

#### **Conduct of the hearing**

**38.**—(1) Subject to paragraph (2), a valuation and community charge tribunal's functions of hearing or determining an appeal shall be discharged by three members of the tribunal, who shall include at least one chairman; and a chairman shall preside.

(2) Where all parties to an appeal who appear so agree, the appeal may be decided by two members of a tribunal, and notwithstanding the absence of a chairman.

(3) The hearing shall take place in public, unless the tribunal otherwise orders on the application of a party, and on being satisfied that the interests of that party would be prejudicially affected.

(4) If at a hearing of an appeal to which a valuation officer is a party every party other than the valuation officer fails to appear, the tribunal may dismiss the appeal.

(5) If at a hearing of an appeal against a completion notice the appellant does not appear, the tribunal may dismiss the appeal.

(6) If at the hearing of an appeal any party does not appear the tribunal may hear and determine the appeal in his absence.

(7) The tribunal may require any witness to give evidence by oath or affirmation, and shall have power for that purpose to administer an oath or affirmation in due form.

(8) Unless the tribunal determines otherwise—

- (a) on the hearing of an appeal under regulation 11, or arising from an alteration of a list by the valuation officer, the valuation officer shall begin the hearing; and
- (b) on the hearing of an appeal against a completion notice, the charging authority shall begin the hearing;

and in any other case parties at the hearing may be heard in such order as the tribunal may determine.

(9) Parties at the hearing may examine any witness before the tribunal and call witnesses.

(10) A hearing may be postponed or adjourned for such time, to such place and on such terms (if any) as the tribunal thinks fit; and reasonable notice of the time and place to which the hearing has been adjourned or postponed shall be given to any party not present.

(11) If it thinks fit a tribunal may after notice to the parties inviting them to be present inspect any hereditament which is the subject of the appeal or any comparable hereditament to which its attention is directed.

(12) Where on the hearing of an appeal under regulation 16 or 30—

- (a) the valuation officer contends that the proposal or the appeal under regulation 30 was not validly made, and
- (b) the tribunal does not uphold his contention,

the tribunal shall not immediately proceed to determine the appeal unless every party so agrees.

(13) Subject to any provision of this Part, the tribunal—

- (a) shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it, and generally to the just handling of the proceedings;
- (b) shall so far as appears to it appropriate seek to avoid formality in its proceedings; and
- (c) shall not be bound by any enactment or rule of law relating to the admissibility of evidence before courts of law.

### **Evidence:general**

**39.**—(1) This regulation applies to information supplied in pursuance of regulation 49 or paragraph 5 of Schedule 9 to the Act.

(2) Subject to the provisions of this regulation, information to which this regulation applies shall in any relevant proceedings be admissible as evidence of any fact stated in it; and any document purporting to contain such information shall, unless the contrary is shown, be presumed—

- (a) to have been supplied by the person by whom it purports to have been supplied;

- (b) to have been supplied by that person in any capacity in which it purports to have been supplied.
- (3) Information to which this regulation applies shall not be used in any relevant proceedings by a valuation officer unless—
  - (a) not less than two weeks' notice, specifying the information to be so used and the hereditament or hereditaments to which it relates, has previously been given to every other party to the proceedings; and
  - (b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted by that officer, at any reasonable time, to inspect and take extracts from the documents or other media in or on which such information is held.
- (4) Any person to whom notice relating to any hereditaments has been given under paragraph (3) (a) may before the hearing serve notice on the valuation officer specifying (subject to paragraph (5)) one or more other hereditaments as being hereditaments which are comparable in character or otherwise relevant to that person's case, and requiring the valuation officer—
  - (a) to permit him at any reasonable time specified in the notice to inspect and (if he so desires) to make a copy of, any document containing information to which this regulation applies which relates to those other hereditaments and is in the possession of the valuation officer; and
  - (b) to produce at the hearing or to submit to the tribunal such documents as before the hearing he has informed the valuation officer that he requires.
- (5) The number of hereditaments specified in a notice under paragraph (4) shall not exceed the number specified in accordance with paragraph (3)(a) in the notice given by the valuation officer under that paragraph.
- (6) Where a notice has been given to the valuation officer under paragraph (4), and the valuation officer refuses or fails to comply with the notice, the person who gave the notice may apply to the tribunal, or, as the case may be, the arbitrator appointed to determine the appeal; and that tribunal or arbitrator may, if satisfied that it is reasonable to do so, direct the valuation officer to comply with the notice as respects all the hereditaments or such of them as the tribunal or arbitrator may determine.
- (7) In this regulation "relevant proceedings" means any proceedings on or in consequence of an appeal, and any proceedings on or in consequence of a reference to arbitration under regulation 46.

#### **Evidence of lists and other documents**

**40.** The contents of a list or certificate may be proved by the production of a copy of it, or of the relevant part, purporting to be certified to be a true copy by the valuation officer; and the contents of a completion notice may be proved by the production of a copy of it purporting to be certified to be a true copy by the proper officer of the charging authority.

#### **Decisions**

- 41.—**(1) An appeal shall be decided by a majority of members participating; and where it falls to be disposed of by two members and they are unable to agree, it shall be remitted by the clerk to be decided by a tribunal consisting of different members.
- (2) The decision of the tribunal—
    - (a) shall be given in writing and signed by the chairman or if there was no chairman the presiding member; and
    - (b) shall as soon as is reasonably practicable be notified in writing to the parties.
  - (3) The tribunal shall on the request of any party made on or before the giving or notification of the decision give reasons for the decision.

## Orders

42.—(1) On or after deciding an appeal under regulation 16 or 26, or an appeal against a completion notice, the tribunal may in consequence of the decision by order require a valuation officer to alter a list in accordance with any provision made by or under the Act.

(2) On or after deciding an appeal under regulation 30 the tribunal may in consequence of the decision by order require a valuation officer to alter any determination or certification given by him for the purposes of Schedule 7A to the Act.

(3) The valuation officer shall comply with an order under paragraph (1) or (2) within six weeks beginning on the day of its making.

(4) Where the decision is that a disputed rateable value should be an amount greater than—

- (a) the amount shown in the list at the date of the proposal, and
- (b) the amount contended for in the proposal, the order shall require the list to be altered with effect from the day on which the decision is given.

(5) Where it appears that circumstances giving rise to an alteration ordered by a tribunal have at the date of the decision ceased to exist, the order may require the alteration to be made in respect of such period as appears to the tribunal to be commensurate with the duration of those circumstances.

(6) An order under this regulation may require any matter ancillary to its subject-matter to be attended to.

## Records of decisions etc.

43.—(1) It shall be the duty of the clerk to make arrangements for each decision, each order made under regulation 42, and, where reasons have been given, the reasons for the decision, to be recorded.

(2) The record may be kept in any form, whether documentary or otherwise; and a copy of each entry shall be transmitted to each party to the appeal to which the entry relates.

(3) Any party to an appeal or representative of such a party may, at a reasonable time stated by or on behalf of the Tribunal concerned and without making payment, inspect records which relate to decisions and orders of the tribunal which are required to be made by paragraph (1).

(4) If without reasonable excuse a person having custody of records intentionally obstructs a person in exercising the right conferred by paragraph (3) he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) The member who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the decision or record, and a copy of the relevant entry as so amended shall be transmitted as required by paragraph (2).

(6) The production in any proceedings in any court of law of a document purporting to be certified by the clerk to be a true copy of a record or decision of that tribunal shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

## Review of decisions

44.—(1) A tribunal constituted as provided in paragraph (2) shall have power on written application by a party to review and revoke, vary or set aside by certificate under the hand of the presiding member—

- (a) any decision on the grounds mentioned in paragraph (3), and
- (b) the decision on an appeal against a completion notice on the grounds mentioned in paragraph (4).

(2) As far as is reasonably practicable, the tribunal appointed to consider an application for a review shall consist of the same members as constituted the tribunal which took the decision subject to review.

(3) The grounds referred to in paragraph (1)(a) are—

- (a) that the decision was wrongly made as a result of clerical error;
- (b) that a party did not receive notice of the hearing leading to the decision, and did not appear;
- (c) that a party did not appear and can show reasonable cause why he did not do so;
- (d) that the decision is affected by a decision of, or on appeal from, the High Court in relation to an appeal under section 23 of the Act in respect of property consisting of or comprised in the hereditament which was the subject of the tribunal's decision; or
- (e) that the interests of justice otherwise require such a review.

(4) The grounds mentioned in paragraph (1)(a) are that new evidence the existence of which could not have been ascertained by reasonably diligent inquiry or could not have been foreseen, has become available since the conclusion of the proceedings to which the decision relates.

(5) If a tribunal revokes a decision in pursuance of this regulation, it shall set aside any order made in pursuance of that decision and shall order a re-hearing or redetermination before either the same or a different tribunal.

### **Appeals**

**45.**—(1) An appeal shall lie to the Lands Tribunal in respect of a decision or order which is given or made by a tribunal on an appeal under regulation 11, 16, 26 or 30.

(2) An appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date of the decision or order that is the subject of the appeal.

(3) The Lands Tribunal may confirm, vary, set aside, revoke or remit the decision of the tribunal, and may make any order the tribunal could have made.

(4) Valuation officers shall act in accordance with any order made by the Lands Tribunal; and paragraph 9 of Schedule 11 to the Act shall have effect subject to this requirement.

### **Arbitration**

**46.**—(1) Where at any time before the beginning of a hearing or the consideration by a tribunal of written representations it is so agreed in writing between the persons who, if a dispute were to be the subject of an appeal to the tribunal, would be the parties to the appeal, the question shall be referred to arbitration.

(2) Section 31 of the Arbitration Act 1950(4) shall have effect for the purposes of the referral of a question in pursuance of this regulation as if such referral were to arbitration under another Act within the meaning of that section.

(3) In any arbitration in pursuance of this regulation the award may include any order which could have been made by a tribunal in relation to the question; and paragraph 9 of Schedule 11 to the Act shall apply to such an order as it applies to an order recorded in pursuance of these Regulations.