
STATUTORY INSTRUMENTS

1993 No. 291

**The Non-Domestic Rating (Alteration
of Lists and Appeals) Regulations 1993**

PART VI

APPEALS (GENERAL)

Interpretation

31. In this Part—

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

“the 1993 Regulations” means the Council Tax (Alteration of Lists and Appeals) Regulations 1993(1).

Jurisdiction: exception

32. Where the appellant is an employee or member of the relevant valuation tribunal, his appeal shall not be dealt with by that tribunal but by such other valuation tribunal as may be appointed for that purpose by the Secretary of State.

Arrangements for appeals

33.—(1) It shall be the duty of the president of a valuation 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 12 until any appeal under regulation 7 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 12 or 28, 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 12 of these Regulations and an appeal under section 23 of the Act (community charges) or under regulation 13 of the 1993 Regulations relate to the same property—

(a) the president of the valuation 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 or the listing officer (as the case may be) shall be joined as a party to the appeal under regulation 12;

(c) the valuation officer shall be joined as a party to the appeal under section 23 or under regulation 13 of the 1993 Regulations (as the case may be).

(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

34.—(1) Without prejudice to regulation 7(2) and subject to paragraph (2) below, an or of consideration of written representations, where notice to that effect is given to the clerk—

- (a) in the case of an appeal against a completion notice, by the appellant in writing, and
- (b) in any other case, but subject to paragraph (2), by the valuation officer.

(2) Subject to paragraphs (4) and (5), notice may not be given by a valuation officer under paragraph (1) unless every other party to the appeal has given written consent to him for the withdrawal of the appeal.

(3) The clerk shall notify the appellant when he has received the notice of withdrawal under paragraph (1)(a), and shall serve a copy of his notice of receipt on all the other parties to the appeal.

(4) Where, after the referral of an appeal under regulation 12, the valuation officer alters the list in accordance with the proposal, or there is an agreement under regulation 11 or 27, 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.

(5) Where following the initiation of an appeal against certification under regulation 30(1) the appellant and the valuation officer agree in writing as to the value which should be certified, the valuation officer shall notify the clerk accordingly and the appeal shall be deemed to have been withdrawn.

Disposal by written representations

35.—(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 the disagreement giving rise to the appeal; 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 to him under these Regulations; and
- (b) any notice under paragraph (2) or (4),

to a tribunal constituted as provided in regulation 40.

(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; or

(b) 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), the clerk 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.

Pre-hearing review

36. 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(2)–

- (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 at 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

37.—(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 conspicuously displayed–

- (a) at the valuation tribunal’s office,
- (b) outside an office of the relevant authority appointed by the authority for that purpose, or
- (c) in another 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.

(4) Where the hearing of an appeal has been postponed, the clerk shall take such steps as are practicable in the time available–

- (a) to notify the parties to the appeal of the postponement; and
- (b) to advertise the postponement.

Disqualification from participating

38.—(1) A person shall be disqualified from participating as a member 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 the relevant authority concerned; or
- (b) an appeal under regulation 12, 28 or 30 if he is a member of the special authority concerned.

(2) References in this regulation to the relevant authority concerned and to the special authority concerned are references to the relevant authority and the special authority in whose area is situated the hereditament which is the subject of the appeal.

Representation at the hearing

39. 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 tribunal).

Conduct of the hearing

40.—(1) Subject to paragraph (2), a valuation 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⁽³⁾; 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 orders otherwise 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 or a listing officer is a party every other party 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) at the hearing of an appeal under regulation 7, or arising from an alteration of a list by the valuation officer, the valuation officer shall begin the hearing; and

(b) at the hearing of an appeal against a completion notice, the relevant 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 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 shall be given to every party.

(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.

(12) Where at the hearing of an appeal under regulation 12 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

(3) See the definition in regulation 2(1) of the Valuation and Community Charge Tribunals Regulations 1989.

- (c) shall not be bound by any enactment or rule of law relating to the admissibility of evidence before courts of law.

Evidence: general

41.—(1) This regulation applies to information supplied in pursuance of regulation 52 or paragraph 5 of Schedule 9 to the Act or section 82 of the General Rate Act 1967(4).

(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 in relation to any information to be information is held 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—

- (i) to inspect the documents or other media in or on which such information is held; and
- (ii) to make a copy of, or of any extract from, any document containing such information.

(4) Subject to paragraph (5), any person to whom notice relating to any hereditament has been given under paragraph (3)(a) may before the hearing serve notice on the valuation officer specifying 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 four, or if greater, the number specified in the notice under paragraph (3)(a).

(6) Nothing in the foregoing provisions of this regulation shall be construed as requiring the making available for inspection or copying, or the production of, any document insofar as it contains information other than information—

- (a) constituting direct evidence of the rent payable in respect of the specified hereditaments, or
- (b) which is otherwise reasonably required for the purposes of the relevant proceedings.

(7) 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.

(4) 1967 c. 9. The Act was repealed by section 117(1) of the Local Government Finance Act 1988, subject to savings.

(8) 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 48.

(9) If any information required to be made available for inspection in accordance with this regulation is not maintained in documentary form, the duty to make it so available is satisfied if a print-out, photographic image or other reproduction of the document which has been obtained from the storage medium adopted in relation to the document is made available for inspection.

Evidence of lists and other documents

42. The contents of a list 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 relevant authority.

Decisions

43.—(1) An appeal may be decided by a majority of the members participating; and where (pursuant to regulation 40(2)) 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 three different members.

(2) Where an appeal is disposed of on the basis of a hearing, the decision may be reserved or given orally at the end of the hearing.

(3) Subject to paragraph (4), as soon as reasonably practicable after a decision has been made, it shall—

- (a) in the case of a decision given orally, be confirmed,
- (b) in any other case, be communicated,

by notice in writing to the parties; and the notice shall be accompanied by a statement of the reasons for the decision.

(4) Nothing in paragraph (3) shall require notice to be given to a party if it would be repetitive of any document supplied to him in accordance with regulation 46.

(5) In the case of an appeal against a completion notice, the clerk shall send notice of the decision to the valuation officer for the relevant authority.

Orders

44.—(1) On or after deciding an appeal under regulation 12 or 28, the tribunal may, subject to paragraph (4), require a valuation officer, in consequence of the decision, by order 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(5) to the Act.

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

(4) Subject to paragraph (5), 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) Schedule 7A is amended by paragraph 85 of Schedule 13 to the Local Government Finance Act 1992.

- (5) Paragraph (4) shall not apply where the order requires the list to be altered to show—
- (a) property previously rated as a single hereditament becoming liable to be rated in parts, or
 - (b) property previously liable to be rated in parts becoming liable to be rated as a single hereditament, or
 - (c) any part of a hereditament becoming part of a different hereditament.

(6) 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.

(7) An order under this regulation may require any matter ancillary to its subjectmatter to be attended to.

Review of decisions

45.—(1) Subject to paragraphs (2) and (3), a tribunal constituted as provided in paragraph (4) shall have power on written application by a party to review or set aside by certificate under the hand of the presiding member—

- (a) any decision on any of the grounds mentioned in paragraph (5), and
- (b) the decision on an appeal against a completion notice on the additional grounds mentioned in paragraph (6).

(2) Paragraph (1) does not apply where an appeal against the decision in question has been determined by the Lands Tribunal.

(3) An application under paragraph (1) may be dismissed if it is not made within the period of four weeks beginning on the day on which notice is given (whether in accordance with regulation 43(3) or regulation 46(3)) of the decision in question.

(4) So far as is reasonably practicable, the tribunal appointed to review a decision shall consist of the same members as constituted the tribunal which took the decision.

(5) 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 appear and can show reasonable cause why he did not do so; and
- (c) that the decision is affected by a decision of, or on appeal from, the High Court or the Lands Tribunal in relation to an appeal in respect of the hereditament which was the subject of the tribunal's decision.

(6) The grounds mentioned in paragraph (1)(b) 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.

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

(8) The clerk shall as soon as reasonably practicable notify the parties to the appeal in writing of—

- (a) a determination that the tribunal will not undertake a review under paragraph (1);
- (b) the determination of the tribunal, having undertaken a review under paragraph (1), that it will not set aside the decision concerned;
- (c) the issue of any certificate under paragraph (1); and
- (d) the revocation of any order under paragraph (7).

(9) Where in relation to a decision in respect of which an application under paragraph (1) is made, an appeal to the Lands Tribunal remains undetermined on the relevant day, the clerk shall notify the Lands Tribunal as soon as reasonably practicable after the occurrence of the relevant event.

(10) In paragraph (9)–

“the relevant day” means the day on which, as the case may be,–

(a) the application under paragraph (1) is made;

(b) an event referred to in any of sub-paragraphs (a) to (d) of paragraph (8) occurs; and

“the relevant event”, in relation to a relevant day, means the event occurring on that day.

Records of decisions, etc.

46.—(1) It shall be the duty of the clerk to make arrangements for each decision, each order made under regulation 44 and the effect of each certificate and revocation under regulation 45 to be recorded.

(2) Records may be kept in any form, whether documentary or otherwise, and shall contain the particulars specified in Schedule 1 below.

(3) A copy, in documentary form, of the relevant entry in the record shall, as soon as reasonably practicable after the entry has been made, be sent to each party to the appeal to which the entry relates.

(4) Each record shall be retained for the period of six years beginning on the day on which an entry was last made in it.

(5) Any person may, at a reasonable time stated by or on behalf of the tribunal concerned and without making payment, inspect records which are required to be made by paragraph (1).

(6) If without reasonable excuse a person having custody of records intentionally obstructs a person in exercising the right conferred by paragraph (5) he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) The member who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the record, and a copy of the corrected entry shall be sent to the persons to whom a copy of the original entry was sent.

(8) 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 of that tribunal shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

Appeals

47.—(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 7, 12, 28 or 30 or on an appeal against a completion notice.

(2) An appeal under paragraph (1) against a decision or order shall lie at the instance of any party–

(a) who appeared at the hearing or, if the appeal was disposed of by written representations, who made such representations, or

(b) whose application for the review of the decision on the ground set out in regulation 45(5)(b), has been determined by the tribunal as mentioned in regulation 45(8)(b).

(3) Subject to paragraph (4), an appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order that is the subject matter of the appeal.

(4) Where–

(a) in relation to an application under paragraph (1) of regulation 45 (review of decisions) made within four weeks of the date on which notice was given of the decision which is the subject matter of the appeal, notice is given as mentioned in paragraph (8)(a) of that regulation, or

(b) notice is given as mentioned in paragraph (8)(b) of that regulation,

the appeal may be dismissed if it is not made within four weeks of the service of the notice under that paragraph (8)(a) or (b).

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

(6) Valuation officers shall act in accordance with any order made by the Lands Tribunal; and paragraph 9 of Schedule 11 to the Act⁽⁶⁾ shall have effect subject to this requirement.

Arbitration

48.—(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⁽⁷⁾ 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.

Notification of further proceedings

49.—(1) Where a valuation officer—

(a) applies to a tribunal under regulation 45 for the review of a decision in consequence of which an order requiring the alteration of a list was made; or

(b) appeals to the Lands Tribunal under regulation 47 against a decision in consequence of which such an order was made, or against such an order,

he shall, at the same time or as soon as reasonably practicable thereafter, notify the authority concerned of the application or appeal.

(2) For the purposes of paragraph (1), the authority concerned—

(a) where the application or appeal relates to the alteration of a local non-domestic rating list, is the relevant authority for whose area the list was compiled; and

(b) in any other case, is the appropriate Secretary of State.

(3) Where a valuation officer appeals to the Lands Tribunal as mentioned in paragraph (1)(b), or receives notice of such an appeal instituted by another party he shall, at the same time or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal of the appeal.

(4) Where, in relation to a decision or order made on an appeal under regulation 29 (completion notices), an authority appeals to the Lands Tribunal under regulation 47, or receives notice of such an appeal instituted by another party it shall, at the same time, or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal of the appeal.

⁽⁶⁾ Paragraph 9 is amended by paragraph 88(8) of Schedule 13 to the Local Government Finance Act 1992.

⁽⁷⁾ 1950 c. 27.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
