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STATUTORY INSTRUMENTS

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**1995 No. 3056**

**The Valuation Tribunals (Wales) Regulations 1995**

**PART VI**

**COUNCIL TAX APPEALS**

**Interpretation**

**34.**—(1) In this Part—

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

- (a) section 16 (appeals: general) of the 1992 Act;
- (b) paragraph 3(1) of Schedule 3 (penalties) to the 1992 Act; or
- (c) paragraph 4 of Schedule 4A to the 1988 Act as it applies for the purposes of Part I of the 1992 Act<sup>(1)</sup> (in this Part called an “appeal against a completion notice”);

“completion notice” means a notice under Schedule 4A to the 1988 Act as it applies for the purposes of Part I of the 1992 Act (Council Tax: England and Wales);

“list” means a valuation list compiled under section 22 of the 1992 Act;

“listing officer”, in relation to an appeal, means the officer appointed under section 20 of the 1992 Act for the authority in whose area the dwelling to which the appeal relates is situated;

“notice of appeal” means a notice under regulation 37(1);

“penalty” means a penalty imposed under paragraph 1 of Schedule 3 to the 1992 Act;

“tribunal”, unless the context otherwise requires, means the members of a tribunal convened in accordance with this Part for the purposes of disposing of an appeal.

(2) Any reference in the following provisions of this Part—

- (a) to a party to an appeal, includes the appellant and any person entitled in pursuance of this Part to be served with a copy of the appellant’s notice of appeal; and
- (b) to a numbered section or Schedule is, unless the context otherwise requires, a reference to the section or Schedule so numbered in the 1992 Act.

**Jurisdiction**

**35.**—(1) Subject to paragraphs (2), (3) and (4)—

- (a) an appeal other than an appeal against the imposition of a penalty shall be dealt with by the tribunal established for the area in which is situated the dwelling to which the appeal relates;

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<sup>(1)</sup> See section 17(1) of the Local Government Finance Act 1992. Schedule 4A is inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 36 and amended by the Local Government Finance Act 1992, Schedule 13, paragraph 83.

- (b) an appeal against the imposition of a penalty shall be dealt with by the tribunal whose area of jurisdiction includes the area of the billing authority concerned.

(2) Where—

- (a) more than one billing authority has decided that a person is liable to pay council tax for the same day because he is a resident in relation to a dwelling, and
- (b) the person appeals under section 16(1) against both or all of the decisions, and
- (c) but for this paragraph, the appeals would fall to be dealt with by different tribunals,

the appeals shall be dealt with, subject to paragraph (3), by such one of those tribunals as he may, by notice in writing given to the clerks of those different tribunals, elect.

(3) Where the appellant is an employee or member of the tribunal which, but for this paragraph, would deal with his appeal, it shall not be dealt with by that tribunal but by such other tribunal as may be appointed for the purpose by the Secretary of State.

(4) Where the appellant is a former member or employee of the tribunal by which, in pursuance of any provision of this regulation, his appeal would fall to be dealt with, and the president determines that it shall not be dealt with by the tribunal, it shall be dealt with by such other tribunal as may be appointed for the purpose by the Secretary of State.

(5) Where—

- (a) the appellant is a former member or employee of an old tribunal, and
- (b) in pursuance of paragraph (1) or (2), his appeal would fall to be dealt with by a tribunal whose area includes all or part of the area of that old tribunal, and
- (c) the president determines that the appeal shall not be dealt with by that tribunal,

it shall be dealt with by such other tribunal as may be appointed for the purpose by the Secretary of State.

### **Time limits**

**36.**—(1) An appeal by a person in relation to whom the condition mentioned in section 16(7) (a) or (b) is fulfilled shall be dismissed unless it is initiated in accordance with this Part not later than the expiry of two months beginning with the date of service of the billing authority’s notice under that section.

(2) Where the condition mentioned in section 16(7)(c) is fulfilled, an appeal by the aggrieved person shall be dismissed unless it is initiated within four months of the date of service of his notice under section 16(4).

(3) An appeal under paragraph 3 of Schedule 3 to the 1992 Act shall be dismissed unless it is initiated not later than the expiry of two months beginning with the date of service of written notice of the imposition of the penalty.

(4) An appeal against a completion notice shall be dismissed unless it is initiated not later than the expiry of four weeks beginning with the date of service of the notice.

(5) Notwithstanding paragraphs (1) to (4), the president may authorise an appeal to be entertained where he is satisfied that the failure of the person aggrieved to initiate the appeal as provided by this regulation has arisen by reason of circumstances beyond that person’s control.

### **Initiating an appeal**

**37.**—(1) An appeal shall be initiated by serving on the clerk of the tribunal having jurisdiction in relation to the appeal a notice in writing (a“ notice of appeal”).

(2) Where the appeal is made under section 16, the notice of appeal shall contain the following information—

- (a) the grounds on which the appeal is made,
- (b) the date on which the notice under section 16(4) was served on the billing authority, and
- (c) the date, if any, on which he was notified by the authority as mentioned in section 16(7) (a) or (b).

(3) Where the appeal is an appeal against a completion notice, the notice of appeal shall be accompanied by—

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

(4) Where the appeal is against the imposition of a penalty, the notice of appeal shall contain the following information—

- (a) the grounds on which the appeal is made, and
- (b) the date of service of written notice of the imposition of a penalty.

(5) 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 it on the billing authority whose decision, action or notice is the subject of the appeal, and any other billing authority appearing to him to be concerned.

### **Arrangements for appeals**

**38.**—(1) It shall be the duty of the president to secure that arrangements are made for appeals to be determined in accordance with the following provisions of this Part.

(2) This paragraph applies where an appeal under this Part and an appeal under one or more of the following—

- (a) Part V of these Regulations;
- (b) regulation 12 of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993(2);
- (c) regulation 13 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993(3);

relate to the same property.

(3) Where paragraph (2) applies—

- (a) the president 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 valuation officer, the listing officer or the community charges registration officer (as the case may be) shall be joined as a party to the appeal under this Part;
- (c) the billing authority shall be joined as a party to the appeal under Part V of these Regulations, regulation 12 of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993 or regulation 13 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 (as the case may be).

(4) In paragraph (3), “valuation officer” and “community charges registration officer” mean the officer appointed under section 61(1)(a) of the 1988 Act or for the purposes of section 26 of the 1988 Act, as the case may be, for the authority in whose area the property concerned is situated.

(5) The clerk shall as soon as is reasonably practicable serve a copy of the notice of appeal on a person who has been made a party in accordance with paragraph (3).

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(2) [S.I. 1993/291](#).

(3) [S.I. 1993/290](#).

### **Withdrawal**

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

(2) The clerk shall notify the appellant when he has received the notice of withdrawal, and shall serve a copy of the notice on all the other parties to the appeal.

### **Disposal by written representations**

**40.**—(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 44.

(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.

### **Notice of hearing**

**41.**—(1) Where the appeal is to be disposed of on the basis of a hearing, the clerk shall, not less than 4 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 tribunal's office,
- (b) outside an office of the billing 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 reasonably practicable in the time available—

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

### **Disqualification from participating**

**42.—**(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, an appeal if he is a member of the relevant billing authority.

(2) In this regulation “relevant billing authority” means—

- (a) in the case of an appeal against a completion notice, the billing authority in whose area is situated the dwelling which is the subject matter of the appeal; and
- (b) in any other case, the billing authority whose decision is being appealed against.

(3) 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, an appeal if the appellant is his spouse or he supports the appellant financially or is liable to do so.

(4) A person shall not otherwise be disqualified from acting in any capacity in relation to an appeal by reason only of the fact that he is a member of an authority which derives revenue directly or indirectly from payments in respect of council tax which may be affected by the exercise of his functions.

### **Representation at the hearing**

**43.** 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 or an employee of the tribunal).

### **Conduct of the hearing**

**44.—**(1) Subject to paragraph (2), a tribunal’s function 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 the appellant fails to appear at the hearing, the tribunal may dismiss the appeal, and if any other party does not appear the tribunal may hear and determine the appeal in his absence.

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

(6) Parties at the hearing may be heard in such order as the tribunal may determine, and may examine any witness before the tribunal and call witnesses.

(7) 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.

(8) If it thinks fit a tribunal may, after notice to the parties inviting them to be present, inspect any dwelling which is the subject of an appeal.

(9) Subject to any provisions 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**

**45.**—(1) This regulation applies to information supplied in pursuance of regulations under section 13 of, or under Schedule 2 to, the 1992 Act<sup>(4)</sup>.

(2) Subject to the following 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; and
- (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 billing authority unless—

- (a) not less than two weeks' notice, specifying the information to be so used and the dwelling or person to which or to whom 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 authority at any reasonable time—
  - (i) to inspect the documents and 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) 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.

(5) 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 52.

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

**46.**—(1) 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 listing officer.

(2) 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 billing authority.

(3) In paragraph (2) “proper officer” has the same meaning as in the Local Government Act 1972<sup>(5)</sup>.

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(4) Regulations under section 13 were made by [S.I. 1992/554](#) and by [S.I. 1993/175](#). Regulations under Schedule 2 were made by [S.I. 1992/613](#); a relevant amending instrument is [S.I. 1992/3008](#).

(5) [1972 c. 70](#). See, in particular, section 270(3).

## **Decisions on appeals**

**47.**—(1) An appeal may be decided by a majority of the members participating; and where (pursuant to regulation 44(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 of the tribunal may be reserved or given orally at the end of the hearing.

(3) Subject to paragraph (4), as soon as is 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 50.

(5) In the case of an appeal against a completion notice, the clerk shall send notice of the decision to the listing officer appointed for the billing authority which is a party to the appeal.

## **Orders**

**48.**—(1) On or after deciding an appeal the tribunal may, in consequence of the decision, by order require—

- (a) an estimate to be quashed or altered;
- (b) a penalty to be quashed;
- (c) the decision of a billing authority to be reversed;
- (d) a calculation (other than an estimate) of an amount to be quashed and the amount to be recalculated.

(2) An order may require any matter ancillary to its subject-matter to be attended to.

## **Review of decisions**

**49.**—(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) a decision on an appeal against a completion notice, on the additional ground mentioned in paragraph (6).

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

(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 47(3) or regulation 50(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 a decision on appeal from, the High Court or the Lands Tribunal in relation to an appeal in respect of the dwelling which, or, as the case may be, the person who, 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 High Court remains undetermined on the relevant day, the clerk shall notify the High Court 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) the 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**

**50.—**(1) It shall be the duty of the clerk to make arrangements for each decision, each order made under regulation 48 and the effect of each certificate and revocation under regulation 49 to be recorded.

(2) Records may be kept in any form, whether documentary or otherwise, and shall contain the particulars specified in Schedule 3 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 the records which are required to be made by paragraph (1).

(6) If without reasonable excuse a person having custody of the record 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 of a tribunal 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.



## Appeals

**51.**—(1) An appeal shall lie to the High Court on a question of law arising out of a decision or order which is given or made by a tribunal on an appeal and may be made by any party to the appeal.

(2) Subject to paragraph (3), 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.

(3) Where—

(a) in relation to an application under paragraph (1) of regulation 49 (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).

(4) The High Court may confirm, vary, set aside, revoke or remit the decision or order of the tribunal, and may make any order which the tribunal could have made.

(5) Billing authorities shall act in accordance with any order made by the High Court; and paragraph 10A of Schedule 11 to the 1988 Act<sup>(6)</sup> shall have effect subject to this requirement.

## Arbitration

**52.**—(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<sup>(7)</sup> 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 10A of Schedule 11 to the 1988 Act shall apply to such an order as it applies to orders recorded in pursuance of this Part.

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<sup>(6)</sup> Paragraph 10A was inserted by the Local Government Finance Act 1992, Schedule 13, paragraph 88(9).

<sup>(7)</sup> 1950 c. 27.