POLICY NOTE

THE NON-DOMESTIC RATES (VALUATION NOTICES) (SCOTLAND) REGULATIONS 2022

SSI 2022/XXX

The above instrument will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by sections 1B(2)(c)(i) and 3(2ZA)(a) of the Local Government (Scotland) Act 1975 and section 22(1) and (3) of the Non-Domestic Rates (Scotland) Act 2020 ("the 2020 Act"). Some of these powers are subject to negative procedure and others to affirmative procedure. The powers are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 and section 33(3) of that Act makes the instrument subject to the affirmative procedure.

This instrument requires that draft and final valuation notices relating to the making up of a valuation roll for properties valued as certain categories, listed in the schedule, include an indication as to where the addresses of the properties the rental evidence of which was taken into account in determining the basic valuation rate (defined as the rate per square metre) for the property, can be accessed. It also requires that draft valuation notices contain a statement to the effect that the notice is being issued in connection with the making up of a valuation roll in preparation for a year of revaluation. Finally it provides that a draft valuation notice may be issued electronically where this is agreed in writing between the assessor and the recipient.

Policy Objectives

Section 1(1) of the Local Government (Scotland) Act 1975 ("the 1975 Act") requires that the assessor publish the valuation roll. Under section 3(2) of the 1975 Act a valuation notice must be issued in connection with this. Section of the 1B of the 1975 Act, as inserted by the Non-Domestic Rates (Scotland) Act 2020, requires that a draft of the valuation roll be published before the roll is made up and a draft valuation notice in relation to the draft roll be sent to the proprietor, tenant or occupier of any property included on the roll.

The information that the assessor is required to include in valuation notices is currently set out in the Valuation Roll and Valuation Notice (Scotland) Order 1989 and includes the property description, name(s) of the proprietor, tenant and occupier, etc. In particular, there is no requirement to provide information pertaining to the valuation of the property beyond statutory adjustments such as apportionment for part residential subjects.

This instrument introduces new requirements for the assessor to publish specified information pertaining to the valuation on the basis of the rate per square metre of specified property types.

It also requires that draft valuation notices contain a statement to the effect that the notice is being issued in connection with the making up of a valuation roll in preparation for a year of revaluation, in order to ensure adequate signposting for the recipient.

The Scottish Government is keen to ensure that valuations are better understood and more transparent for ratepayers without being over administratively burdensome ahead of the 2023

revaluation and publication of the draft roll on the 30 November 2022. This instrument is intended to help deliver clearer valuations and is consistent with the agreement of the Appeals sub-group that was established to implement the reforms recommended by the independent Barclay Review of Non-Domestic Rates that this should be an iterative process as noted in its Final Report:[1]

"The Appeals sub-Group agreed that consideration should be given to putting in place a statutory requirement that the Assessor publish, alongside each valuation notice, the addresses of let properties the rental evidence of which has been used to inform the basic rate at Draft RV stage. It agreed that this could be rolled out progressively, for 'standard' shops, offices and warehouses & workshops - valued using the Comparative method in the first instance, with a view of expanding the list to all properties valued using this method at future revaluations."

This instrument provides that for 32 categories of property where the property is valued using the comparative method and a basic valuation rate (the rate per square metre applied) has been used to value the property, the assessor must include in the draft and final valuation notices in respect of revaluation, an indication as to where the addresses of let properties the rental information of which was used to calculate the basic valuation rate can be accessed.

The Scottish Government believes that the only suitable way to identify what falls within the 32 categories of property is by reference to the SAA's Practice Notes for a given revaluation as they stand at any given point in time, bearing in mind that individual notices may be revised from time to time, as most of the categories do not have statutory definitions, and where they do, these do not necessarily align with rating practice.

The Practice Notes are published on the SAA's Portal; those for the 2017 revaluation are available at: https://www.saa.gov.uk/non-domestic-valuation/2017-practice-notes/

The categories are as follows:

1. Banks
2. Building societies
3. Car showrooms
4. Casinos
5. Clinics
6. Computer centres
7. Day nurseries
8. Deer forests
9. Department stores
10. Depot warehouses
11. Distribution warehouses
12. Factories
13. Factory outlet centres
14. Fitness centres
15. Golf courses
16. Golf driving ranges

[1] https://webarchive.nrscotland.gov.uk/20210418081308/www.gov.scot/publications/barclay-implementation-advisory-group-appeals-sub-group-final-report

17. Health centres
18. Indoor bowling stadiums
19. Large shops
20. Offices
21. Pavilions
22. Primary care centres
23. Private health clubs
24. Retail warehouses
25. Shootings
26. Shops
27. Sports clubhouses
28. Stores
29. Supermarkets
30. Ten pin bowling alleys
31. Warehouses
32. Workshops

The approach of these Regulations is considered to strike a balance between ensuring that the additional information is provided to proprietors, tenants and occupiers of a broad range of properties, and taking account of what is practicable in terms of putting necessary arrangements in place in time for the start of forthcoming year of revaluation, on 1 April 2023. The restriction to scenarios where there are at least two properties with which a comparison can be drawn, looks to ensure that commercial sensitivity is respected. It is for reasons of practicability and commercial sensitivity, also, that only properties valued according to the comparative method are caught. The requirement that the properties with which a comparison is drawn be located in Scotland prevents the passing on of information which has been acquired from valuation offices outside of Scotland.

The Scottish Government remains committed to making non-domestic property valuation more transparent and intelligible, and will explore how more property classes and/or information might be covered in subsequent revaluations.

The instrument finally provides that a draft valuation notice may be issued electronically where this is agreed in writing between the assessor and the recipient in order to facilitate communication between parties.

Consultation

The draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022 were consulted on as part of the *Consultation on reforming the non-domestic rates system: proposals, the draft valuation roll, content of valuation notices, etc.* A full list of those who responded to the consultation and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website.

The consultation, as well as the responses, where permission was given to publish, can be accessed at: https://consult.gov.scot/local-government-and-communities/non-domestic-rates-processes/.

There was broad support in the consultation responses for the use of electronic communication where agreed between the parties.

Many respondents called for the information-sharing requirements in valuation notices to be expanded, both in terms of the properties covered by the requirements and the information to be provided. Others raised concerns over commercial sensitivity around the information used in certain valuations and cautioned against including it in valuation notices.

There was broad agreement that applying the use classes set out in the Town and Country Planning (Use Classes) (Scotland) Order 1997, as proposed, was not appropriate and that descriptions more closely matching those used in rating valuation should be adopted.

Impact Assessments

No Business and Regulatory Impact Assessment has been carried out.

Financial Effects

The instrument has no financial effects on the Scottish Government, local government or on business. The Scottish Government has since 2019-20 made funding available to local government via the annual local government settlement specifically in respect of assessors' costs for the implementation of the Barclay Review and the Non-Domestic Rates (Scotland) Act 2020.

Scottish Government
Local Government and Housing Directorate

4 May 2022