STATUTORY INSTRUMENTS

1984 No. 1506 (S. 126)

RATING AND VALUATION

The Valuation Appeal Committee Procedure (Scotland) Regulations 1984

Made - - - -	17*th September* 1984
Laid before Parliament	1*st October* 1984
Coming into operation	
For the purposes of regulation 4	1*st April* 1985
For all other purposes	15*th February* 1985

In exercise of the powers conferred on me by section 15(2) and (2A) of the Local Government (Financial Provisions) (Scotland) Act 1963 (**a**) and of all other powers enabling me in that behalf and after consultation with the Council on Tribunals, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Valuation Appeal Committee Procedure (Scotland) Regulations 1984 and shall come into operation for the purposes of regulation 4 on 1st April 1985 and for all other purposes on 15th February 1985. They shall apply to appeals relating to a valuation roll coming into force on or after 1st April 1985.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the Local Government (Scotland) Act 1975 (**b**);

"the Valuation Acts" means the Lands Valuation (Scotland) Act 1854 (**c**), the Acts amending that Act and any other Act relating to valuation;

"appeal" includes complaint, and "appellant" shall be construed accordingly;

"assessor" means the assessor or depute assessor for a valuation area appointed under section 116 of the Local Government (Scotland) Act 1973 (**d**);

"committee" means any valuation appeal committee for a valuation area constituted in accordance with a model scheme made under section 4 of the Act;

"notice" means notice in writing;

"secretary" means the secretary or assistant secretary to the local valuation panel from which the committee is constituted, or other person for the time being authorised by the panel to act as secretary or assistant secretary to the committee;

(**a**) 1963 c.12; section 15 was amended by the Local Government (Scotland) Act 1975 (c.30), Schedule 6, paragraph 25 and section 15(2A) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), section 12(2).
(**b**) 1975 c.30. (**c**) 1854 c.91. (**d**) 1973 c.65.

"the Tribunal" means the Lands Tribunal for Scotland;

and other words and expressions used have the same meaning as in the Valuation Acts.

(2) Any reference in these regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these regulations.

Method of appeal

3.—(1) An appeal to a committee shall be lodged with the assessor, must specify the subjects in respect of which the appeal is raised and must be in writing.

(2) In the case of an appeal which is not withdrawn or where the parties have not reached agreement under section 2(3) of the Act the assessor shall notify the secretary of the appeal.

(3) If, in the case of an appeal which has been notified to the secretary under regulation 3(2), the parties subsequently reach agreement under section 2(3) of the Act at any time before the appeal is determined by the committee or has been referred to the Tribunal the assessor shall so inform the secretary.

Referral to the Lands Tribunal for Scotland

4.—(1) Any party to an appeal may, at any time up to 21 days before the date set for the hearing of an appeal under regulation 5, make an application in writing to the committee seeking referral of the appeal for determination by the Tribunal under section 1(3A) of the Lands Tribunal Act 1949 (**a**). Such an application shall include representations in relation to the matters listed in paragraph 3*(a)* to *(e)* below.

(2) Except in the case of a joint application by all parties, each party shall at the same time as he makes such an application send a copy of the application to every other party any of whom may make written representations to the committee on that application and shall send a copy of any such representations to the applicant.

(3) Not less than 28 days after receiving such an application the committee shall decide, without hearing the parties in person, whether the appeal should be heard by the committee or referred to the Tribunal for determination. In so deciding the committee shall have regard to the application and any written representations thereon including any further representations the committee may request any of the parties to make and, if it appears to the committee that—

(a) the facts of the case are complex or highly technical;

(b) the evidence to be given by expert opinion is complex or highly technical;

(c) the law applicable to the case is uncertain or difficult to apply;

(d) the case raises a fundamental or general issue likely to be used as a precedent in other cases;

(e) the subjects relate to more than one valuation area and the valuation is appealed in more than one such area;

the committee shall refer the appeal for determination to the Tribunal and the secretary shall inform the parties accordingly.

(**a**) 1949 c.42; section 1(3A) was inserted by section 12(1) of the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31).

(4) The committee shall not be required to give reasons for its decisions on whether or not to refer the case to the Tribunal.

(5) Where an appeal has been referred, under this regulation, to the Tribunal for determination but the Tribunal has, under section 1(3B) of the Lands Tribunal Act 1949(**a**), declined to proceed to determine it, the committee shall proceed with the appeal as if no such reference had been made, save that the appeal may not again be referred to the Tribunal.

Arrangements for hearing

5.—(1) Unless—

(a) the secretary has been notified under regulation 3(3) that the parties have reached agreement or the appeal has been withdrawn or

(b) the committee has referred the appeal under regulation 4(3) to the Tribunal which has not declined to determine the appeal,

the secretary shall issue to each party a notice for the hearing of an appeal.

(2) The secretary shall give to each party not less than 35 days notice of the date, time and place fixed for the hearing of the appeal.

(3) If an appellant considers that his appeal has not been heard within a reasonable period of lodging it he may request the committee to hear the appeal within such period as he may specify being a period not less than 35 days from the date of his request. If the committee declines to hear the appeal within such a period it shall state its reasons for so declining.

6.—(1) A hearing shall be in public unless the committee with reasonable cause otherwise decides: provided that nothing in these regulations shall prevent a member of the Council on Tribunals or of its Scottish Committee in that capacity from attending any hearing.

(2) The committee at its discretion may at any time postpone or adjourn a hearing giving the parties such intimation as it considers reasonable.

Information to be furnished by parties to an appeal

7.—(1) An appellant shall, not later than 21 days before the date fixed for the hearing, furnish to the assessor a written statement of his grounds for maintaining that the entry in the valuation roll is erroneous. If the appeal relates to the valuation of property other than a dwelling house the appellant shall specify a valuation which he considers should be substituted for that entered in the valuation roll.

(2) The assessor shall within 7 days of the receipt of such a statement furnish to such appellant a written statement of the grounds on which the entry in the valuation roll is arrived at.

(3) Any party to an appeal may, not later than 14 days before the date fixed for the hearing, furnish to each other party to the appeal a list of any lands and heritages on which he proposes to found by way of comparison at the hearing and may at the same time make written request to any other parties to provide him with a list of lands and heritages on which that other party proposes to found by way of comparison at the hearing and any party so requested shall furnish such a list not later than 7 days before the date fixed for the hearing.

(**a**) Section 1(3B) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

(4) At the hearing, the committee shall not allow a party to found on lands and heritages not included in a list provided by any party under regulation 7(3) without the consent of all parties to the hearing, but may, if the party seeking to found on such lands and heritages shows cause why they were not so included, allow him to found on them, subject to such conditions as the committee thinks fit.

Statements of evidence

8.—(1) The committee may require any party to the appeal within such period as the committee may specify—

(a) to provide the other parties to the appeal with a written statement outlining the evidence which the party proposes to lead at the hearing;

(b) to furnish the other parties to the appeal with a copy of all productions on which the party proposes to found at the hearing.

(2) Where the committee makes any requirement under paragraph (1) of this regulation it shall not be competent, unless the committee so allows, for the parties to lead evidence other than in accordance with the material previously provided by them.

Representation at hearing

9. Subject to the provisions of section 10 of the Lands Valuation (Scotland) Act 1854 (attendance of assessor at hearing) a party may appear before and be heard by the committee in person or he may be represented by counsel or solicitor or, with leave of the committee, by any other person:

Provided that a member of the local valuation panel from which the committee is constituted shall not be entitled to represent any party to the appeal.

Procedure at hearing

10. At a hearing—

(a) unless the committee after hearing any submission by parties as to the order of hearing otherwise determines, the appellant shall be heard first;

(b) a party may call and examine witnesses, give evidence on his own behalf and cross-examine any other party to the appeal who gives evidence and any witness called by any other party.

11. If any appellant fails to appear or be represented at the hearing of his appeal, the committee may dismiss the appeal:

Provided that within 14 days from notification of the dismissal of any appeal under this regulation or such longer period as the committee may in special circumstances allow the appellant may represent in writing to the committee that there was reasonable excuse for his absence and the committee may, if satisfied that there was such excuse, recall the said decision and appoint a further date, time and place for the hearing of the appeal, of which it shall give the parties not less than 7 days' notice.

12.—(1) Where a party to an appeal requires a record of the evidence led at the hearing he may make arrangements for the taking at his expense of such a record and he shall inform the committee accordingly; and he shall, in accordance with arrangements approved by the committee, retain the record for so long as may be required for the purposes of regulation 12(2).

(2) The committee may, if such record has been taken and is required in connection with the preparation of a case to be stated for the opinion of the Lands Valuation Appeal Court, require the party or parties on whose behalf the said evidence was taken to provide a certified transcript of the record, at the expense of the committee, and the committee shall on request make available a copy of such transcript to any party to the appeal.

Decision

13. Without prejudice to the generality of regulation 6(2), the committee may adjourn the hearing of an appeal for the purpose of considering its decision thereon. If it so adjourns and issues its decision at another sitting it shall—

(a) announce, at the time of such adjournment, the date, time and place of that sitting; or

(b) give not less than 7 days' notice of the date, time and place of that sitting.

14. The committee shall send notice of its decision on the appeal to each party within 3 days of issuing that decision.

Reasons for decision

15. The committee may at the time of issuing or sending notice of its decision on any appeal issue to the parties a written statement of the reasons for the decision, and shall on application in writing by or on behalf of any party made within 14 days from the date of the decision issue such a statement to the parties within 7 days from the date of the application, unless it has already so done.

Relaxation of regulations

16. A committee may—

(a) waive any breach or non-observance of any provision of these regulations;

(b) if it thinks fit, extend the time appointed by these regulations for doing any act, and may do so notwithstanding that the time so appointed has expired before an application for extention: provided that the committee shall be satisfied that no substantial prejudice would thereby be caused to any party to the appeal.

Revocations

17. Except as respects appeals relating to a valuation roll in force immediately prior to the date of coming into operation of these regulations the Appeals and Valuation Appeal Committee Procedure (Scotland) Regulations 1978 (**a**) are hereby revoked.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
17th September 1984.

(**a**) S.I. 1978/252.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations replace the Appeals and Valuation Appeal Committee Procedure (Scotland) Regulations 1978 prescribing the procedure to be followed in proceedings before valuation appeal committees established under section 4 of the Local Government (Scotland) Act 1975. The regulations include the procedure to be followed in referring appeals to the Lands Tribunal for Scotland in terms of section 1(3A) of the Lands Tribunal Act 1949 (introduced by the Rating and Valuation (Amendment) (Scotland) Act 1984) and make other minor amendments to the procedures.

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