

POLICY NOTE

THE NON-DOMESTIC RATES (SCOTLAND) ACT 2020 (TRANSITIONAL PROVISION) REGULATIONS 2023

SSI 2023/64

The above instrument is made in exercise of the power conferred by section 43(1) of the Non-Domestic Rates (Scotland) Act 2020. The instrument is subject to the negative procedure and comes into effect on 1 April 2023.

These Regulations make transitional provision in relation to certain appeal rights under section 3 of the Local Government (Scotland) Act 1975 (“the 1975 Act”) which existed on 31 March 2023, immediately before the relevant provisions of section 3 were repealed, but had not been exercised by that date.

Policy Objectives

The functions of valuation appeal committees will transfer to the Local Taxation Chamber of the First-tier Tribunal for Scotland on 1 April 2023. A new two-stage appeal system will also be introduced. Transitional provision is required for certain non-domestic rating appeal rights extant as at 31 March 2023, but not exercised by that date.

It is necessary to make provision for the procedures and timescales to be followed if the appeal right holder chooses to exercise that right on or after 1 April 2023.

Regulation 2(2) therefore enables the owner or occupier of a non-domestic property who had an unexercised right of rating appeal in relation to the following on 31 March 2023, to make instead, from 1 April 2023, a proposal to the assessor under section 3ZA of the 1975 Act if they are aggrieved by the entry in the valuation roll:

- the content of a valuation notice (section 3(2) of the 1975 Act)
- becoming a proprietor, tenant or occupier (section 3(2A) of the 1975 Act)
- a material change of circumstances (section 3(4) of the 1975 Act).

Regulation 2(3) provides a cut-off date of 31 July 2023 for the making of any proposal in accordance with regulation 2(2). An owner or occupier with one of the above unexercised rights of appeal on 31 March 2023 will therefore lose those rights on 1 April 2023 but will have a full four months thereafter to make a proposal. This will be the case irrespective of any previous deadline for making an appeal. This was considered the fairest way to treat these rights of appeal, as to continue the countdown from when the appeal right arose may have left some people with little time to lodge a proposal from 1 April 2023, and to provide six months to lodge a proposal from 1 April 2023 would have provided more time than on rights of challenge arising after 1 April 2023, and would have provided some owners or occupiers with significantly longer than six months to lodge an appeal (prior to 1 April 2023) and then a proposal (from 1 April 2023). Further, in a three yearly revaluation cycle, it is important that proposals be lodged timeously in order that they may be considered timeously.

Regulation 2(4) confirms that the timescales set out in schedule 1 of the Valuation Timetable (Scotland) Order 2022 for the making of a proposal do not apply to proposals made in

accordance with regulation 2(2). The other timescales relating to the resolution of a proposal would apply.

Regulation 2(5) excludes from the right to make a proposal under regulation 2(2) an unexercised right of appeal by an owner or occupier on the ground of there being an error in an entry in the valuation roll. This is because an error can only be appealed during the time when the roll in which the alleged error is to be found. In other words, an error in the 2017 valuation roll can only be appealed up to 31 March 2023 under section 3(4A)(b) of the 1975 Act.

Under section 3ZB of the 1975 Act, an appeal can be lodged after the proposal stage in prescribed circumstances. The timescales for lodging an appeal are set out in regulation 18 of The Valuation (Proposals Procedure) (Scotland) Regulations 2022.

Consultation

The 'Consultation on reforming the non-domestic rates system: proposals, the draft valuation roll, content of valuation notices, etc.' informed the development of the two-stage non-domestic rates appeals system.

The Scottish Government published an analysis of the consultation responses on 22 April 2022 which can be accessed at: Annex A: Consultation Responses - Reforming the non-domestic rates system: consultation analysis - gov.scot (www.gov.scot)

Impact Assessments

A Business Regulatory Impact Assessment was published alongside The Valuation (Proposals Procedure) (Scotland) Regulations 2022 and can be accessed here: The Valuation (Proposals Procedure) (Scotland) Regulations 2022 (legislation.gov.uk)

Financial Effects

There is no fee to make a proposal and this does not require professional representation. A Business Regulatory Impact Assessment was published alongside The Valuation (Proposals Procedure) (Scotland) Regulations 2022.

Scottish Government
Local Government and Communities Directorate

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