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WELSH STATUTORY INSTRUMENTS

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**2010 No. 713**

**The Valuation Tribunal for Wales Regulations 2010**

**PART 5**

**Council Tax Appeals**

**Interpretation**

**27.**—(1) In this Part—

“appeal” (“*apêl*”), 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 (in this Part called an “appeal against a completion notice”)(1);

“Appeal Panel” (“*Panel Apêl*”) means the members of the Valuation Tribunal convened in accordance with this Part for the purpose of disposing of an appeal;

“Clerk” (“*Clerc*”) means —

- (a) the chief executive; and
- (b) any other employee of the Valuation Tribunal appointed under regulation 15(6) to whom some or all of the functions of the Clerk in this Part have been delegated;

“list” (“*rhestr*”) means a valuation list compiled under Chapter 2 of Part 1 of the 1992 Act;

“listing officer” (“*swyddog rhestru*”) in relation to an appeal, means the officer appointed under section 20 for the authority in whose area the dwelling to which the appeal relates is situated;

“notice of appeal” (“*hysbysiad am apêl*”) means a notice under regulation 30(1); and

“penalty” (“*cosb*”) means a penalty imposed under paragraph 1 of Schedule 3 to the 1992 Act.

(2) Any reference in 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 is, unless the context otherwise requires, a reference to the section so numbered in the 1992 Act.

**Appeal Panels in special circumstances**

**28.**—(1) Where the appellant is—

- (a) a former member of an old Tribunal,
- (b) a former employee of an old Tribunal, of the old Service or of the Valuation Tribunal, or

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(1) Section 17 of the 1992 Act applies Schedule 4A to the 1988 Act (with the exception of paragraph 6) for the purposes of Part I of the 1992 Act.

(c) an employee or member of the Valuation Tribunal;

the appeal must be dealt with by such members of the Valuation Tribunal as may be appointed for that purpose by the President.

(2) Where it appears to the President that by reason of a conflict of interests, or the appearance of such a conflict, it would be inappropriate for an appeal to be dealt with by particular members of the Valuation Tribunal, the President must appoint other members to deal with that appeal.

### **Time limits**

**29.**—(1) An appeal by a person in relation to whom the condition mentioned in section 16(7) (a) or (b) is fulfilled will 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) When the condition mentioned in section 16(7)(c) is fulfilled, an appeal by the aggrieved person will be dismissed unless it is initiated within four months of the date of service of that person's notice under section 16(4).

(3) An appeal under paragraph 3 of Schedule 3 to the 1992 Act will 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 will 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 the President 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**

**30.**—(1) An appeal must be initiated by serving on the Clerk a notice in writing.

(2) Where the appeal is made under section 16, the notice of appeal must 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 the appellant 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 must 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 must 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 must, within two weeks of service of the notice of appeal, notify the appellant that the Clerk has received the notice, and must 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 the Clerk to be concerned with the matter.

### **Arrangements for appeals**

**31.**—(1) The President must 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) regulations made under section 55 of the 1988 Act,
- (b) regulations made under section 24,

relate to the same property.

(3) Where paragraph (2) applies—

- (a) the President will secure that the appeals are dealt with in such order as appears to the President best designed to secure the interests of justice;
- (b) the valuation officer or the listing officer (as the case may be) and the billing authority must be joined as a party to an appeal under this Part.

(4) In paragraph (3), “valuation officer” means the officer appointed under section 61(1)(a) of the 1988 Act.

(5) The Clerk must 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).

### **Withdrawal**

**32.**—(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 by an Appeal Panel.

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

### **Disposal by written representations**

**33.**—(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 must serve notice on the parties accordingly; and, within four weeks of service of such a notice on a party, each party may serve on the Clerk a notice stating—

- (a) the reasons or further reasons for the disagreement giving rise to the appeal; or
- (b) that party does not intend to make further representations.

(3) A copy of any notice served in pursuance of paragraph (2) must be served by the Clerk on the other party or parties to the appeal, and must 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 that party’s reply to the other party’s statement, or that that party does not intend to make further representations, as the case may be; and the Clerk must 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 must submit to an Appeal Panel copies of—

- (a) any information transmitted to the Clerk under these Regulations, and
- (b) any notice under paragraph (2) or (4).

(6) The Appeal Panel 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 an Appeal Panel requires any party to furnish any particulars under paragraph (6)(a), the Clerk must 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 they wish to make in response.

### **Notice of hearing**

**34.**—(1) Where the appeal is to be disposed of on the basis of a hearing, the Clerk must, 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 will advertise the date, time and place appointed for any hearing by causing a notice giving such information to be conspicuously displayed—

- (a) outside an office of the billing authority appointed by the authority for that purpose, or
- (b) in another place within that authority’s area.

(3) The notice required by paragraph (2) must 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 must 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**

**35.**—(1) A person will be disqualified from participating as a member in the hearing or determination of, or acting as Clerk or officer of the Valuation Tribunal in relation to, an appeal if that person 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 will be disqualified from participating as a member in the hearing or determination of, or acting as Clerk or officer of the Valuation Tribunal in relation to, an appeal if the appellant is that person’s spouse, civil partner or that person supports the appellant financially or is liable to do so.

(4) A person will not otherwise be disqualified from acting in any capacity in relation to an appeal by reason only of the fact that that person 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 that person’s functions.

### **Representation at the hearing**

**36.** Any party to an appeal which is to be decided at a hearing may appear in person (with assistance, if wished, from any person), or be represented by counsel or solicitor, or any other representative (other than a person who is a member of the Valuation Tribunal or the Governing Council or an employee of the Valuation Tribunal).

### **Conduct of the hearing – Appeal Panels**

**37.**—(1) Subject to paragraph (2), the Valuation Tribunal’s function of hearing or determining an appeal will be discharged by a panel of three members of the Valuation Tribunal (“an Appeal Panel”) which must include at least one Chairperson; and a Chairperson will preside.

(2) Where all parties to an appeal who appear so agree, the appeal may be decided by two members of an Appeal Panel, and notwithstanding the absence of a Chairperson.

(3) The hearing must take place in public, unless the Appeal Panel otherwise orders on the application of a party and on being satisfied that the interests of that party would be prejudicially affected by a public hearing.

(4) If the appellant fails to appear at the hearing, the Appeal Panel may dismiss the appeal, and if any other party does not appear the Appeal Panel may hear and determine the appeal in that party’s absence.

(5) The Appeal Panel may require any witness to give evidence under oath or affirmation, and will 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 Appeal Panel may determine, and may examine any witness before the Appeal Panel and call witnesses.

(7) A hearing may be adjourned for such time, to such place and on such terms (if any) as the Appeal Panel thinks fit; and reasonable notice of the time and place to which the hearing has been adjourned must be given to every party.

(8) If it thinks fit an Appeal Panel 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 Appeal Panel—

- (a) must 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) must, so far as appears to it appropriate, seek to avoid formality in its proceedings; and
- (c) will not be bound by any enactment or rule of law relating to the admissibility of evidence before courts of law.

### **Evidence: general**

**38.**—(1) This regulation applies to information supplied in pursuance of regulations under section 13 or Schedule 2 to the 1992 Act.

(2) Subject to the following provisions of this regulation, information to which this regulation applies will in any relevant proceedings be admissible as evidence of any fact stated in it; and any document purporting to contain such information will, 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 must 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 that person’s 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 information, which has been obtained from the storage medium adopted in relation to that information, 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 45.

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

**39.**—(1) The contents of a list may be proved by the production of a copy of the list, 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(2).

### **Decisions on appeals**

**40.**—(1) An appeal may be decided by a majority of the members participating; and where (pursuant to regulation 37(2)) it falls to be disposed of by two members and they are unable to agree, it must be remitted by the Clerk to be decided by an Appeal Panel consisting of three different members.

(2) Where an appeal is disposed of on the basis of a hearing, the decision of the Appeal Panel 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 must—

- (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 must be accompanied by a statement of the reasons for the decision.

(4) Nothing in paragraph (3) will require notice to be given to a party if it would be repetitive of any document supplied to that person in accordance with regulation 43.

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

(6) In this regulation, “member” means a member of an Appeal Panel.

### **Orders**

**41.**—(1) On or after deciding an appeal the Appeal Panel 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**

**42.**—(1) Subject to paragraphs (2) and (3), an Appeal Panel constituted as provided in paragraph (4) will 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 40(3) or regulation 43(3)) of the decision in question.

(4) So far as is reasonably practicable, the Appeal Panel appointed to review a decision will consist of the same members as constituted the Appeal Panel 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 that party did not do so;
- (c) that the decision is affected by a decision of, or a decision on appeal from, the High Court or the Upper 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 Appeal Panel’s decision; and
- (d) the interests of justice otherwise require such a review.

(6) The ground mentioned in paragraph (1)(b) is 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 an Appeal Panel sets aside a decision in pursuance of this regulation, it must revoke any order made in consequence of that decision and must order a re-hearing or redetermination before either the same or a different Appeal Panel.

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

- (a) a determination that the Appeal Panel will not undertake a review under paragraph (1);
- (b) the determination of the Appeal Panel, 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 must notify the High Court as soon as reasonably practicable after the occurrence of the relevant event.

(10) In paragraph (9)—

“the relevant day” (“*diwrnod perthnasol*”) 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” (“*digwyddiad perthnasol*”), in relation to a relevant day, means the event occurring on that day.

(11) In this regulation, “member” means a member of an Appeal Panel.

### **Records of decisions, etc**

**43.**—(1) It will be the duty of the Clerk to make arrangements for each decision, each order made under regulation 41 and the effect of each certificate and revocation under regulation 42 to be recorded.

(2) Records may be kept in any form, whether documentary or otherwise, and must contain the particulars specified in Schedule 3.

(3) A copy, in documentary form, of the relevant entry in the record must, 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 must 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 Valuation Tribunal 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), that person will 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 must 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 Chief Executive or Clerk of an Appeal Panel to be a true copy of a record or decision of that Panel will, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

### **Appeals**

**44.**—(1) An appeal will lie to the High Court on a question of law arising out of a decision or order which is given or made by an Appeal Panel 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 in relation to an application under paragraph (1) of regulation 42 made within four weeks of the date on which notice was given of the decision which is the subject matter of the appeal —

(a) 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 an Appeal Panel, and may make any order which the Appeal Panel could have made.

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

### **Arbitration**

**45.—**(1) Where at any time before the beginning of a hearing or the consideration by an Appeal Panel 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 Valuation Tribunal, would be the parties to the appeal, the question will be referred to arbitration.

(2) In any arbitration in pursuance of this regulation, the award may include any order which could have been made by an Appeal Panel in relation to the question; and paragraph 10A of Schedule 11 to the 1988 Act will apply to such an order as it applies to orders recorded in pursuance of this Part.

### **Service of notices**

**46.—**(1) Without prejudice to section 233 of the Local Government Act 1972, any notice to be served by the Clerk or listing officer under this Part may be served —

- (a) by delivering it —
  - (i) to the person on whom it is to be served; or
  - (ii) to any other person authorised by them to act as their agent for the purpose;
- (b) by leaving it at or forwarding it by post to —
  - (i) the usual or last-known place of business of that person, or
  - (ii) in the case of a company, its registered office, or
  - (iii) the usual or last-known place of business or registered office of any other person authorised as mentioned in sub-paragraph (a)(ii);
- (c) by delivering it to some person on the premises to which it relates or, if there is no person on the premises to whom it can so be delivered, by fixing it to some conspicuous part of the premises;
- (d) without prejudice to the foregoing provisions of this regulation, where premises to which the notice relates are a place of business of the person on whom it is to be served, by leaving it at, or forwarding it by post addressed to that person at, that place of business; or
- (e) by electronic communication in accordance with paragraph (3) but subject as mentioned in that paragraph.

(2) Any notice to be served on the Valuation Tribunal, the Clerk, the valuation officer or the listing officer under these Regulations must be—

- (a) sent by pre-paid post or delivered by hand to the address specified for the proceedings;
- (b) sent by fax to the number specified for the proceedings; or
- (c) sent or delivered by such other method and to such address as may be agreed by the Clerk, the valuation officer or the listing officer (as the case may be) and the person by whom the notice is to be served.

(3) Subject to paragraph (4), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept service of notices and delivery of documents by that method.

(4) If a party informs the Clerk and all other parties that a particular form of communication (other than post or delivery) should not be used to serve notice on, or provide documents to, that party, that form of communication must not be used.

(5) If the Clerk or a party sends a notice to a party or the Clerk by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the notice to the recipient.

(6) A request under paragraph (5) must be made as soon as reasonably practicable after the recipient receives the notice or document electronically.

(7) If the name of any taxpayer on whom a notice is required or authorised to be served cannot after reasonable inquiry be ascertained, the notice may be served by addressing it to “The Council Tax Payer” of the dwelling concerned (naming the dwelling), without further name or description.

(8) For the purpose of any legal proceedings, a notice given by electronic communication, shall, unless the contrary is proved, be treated as served on the second business day after it was sent.

(9) A person who has notified an address for the purpose of electronic communication shall, by notice in writing to the Clerk and the other parties, advise the Clerk and the other parties of any change in that address; and the change shall take effect on the third business day after the date on which the notice is received by the Clerk and the other parties, as the case may be.

(10) The Clerk and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

(11) In this regulation —

- (a) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000<sup>(3)</sup>;
- (b) any reference to a notice includes a reference to any other document required or authorised to be served; and
- (c) any reference to such requirement or authorisation is to a requirement or authorisation under these Regulations.

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(3) 2000 c. 7. Section 15(1) (interpretation) was amended by the Communications Act 2003, section 406(1), Schedule 17, paragraph 158.