



Non Domestic Rates Revaluation 2005 Appeal Procedure



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Introduction

The following is a guide to what happens if you decide to appeal against the valuation which the Assessor has set for your property. It applies to appeals lodged on or after 1 April 2005. This is not a statement of the law. If you have any questions contact your local Assessor. You may also wish to consider taking professional advice from a solicitor or chartered surveyor. If you would like advice on professionally recognised rating advisers, call the Royal Institution of Chartered Surveyors Contact Centre on 0870 333 1600.

Assessors are responsible for the valuation of property for rating purposes. In carrying out their function they are entirely independent of both local and central government and reach decisions in accordance with applicable statute and case law. Economic circumstances in each area will affect rateable values to the extent that they affect the rental evidence used by the Assessor in setting rateable values.

Although the valuation appeal system is governed by regulations, sometimes the procedures may vary locally. If you appeal, the Secretary to your local Valuation Appeal Committee (VAC) or Panel will be able to explain these as will your local Assessor.

How to appeal

If you do not agree with the valuation set for your property, you should write to the Assessor at the address on the Valuation Notice.

It will assist in taking matters forward if you include in your letter what you think the valuation of your property should be. If you want to compare the valuation of your property with other properties you can inspect the valuation roll which lists all the properties in your area. The valuation roll can be seen at the Assessor's office or at main public libraries or council offices. Details about rateable values of non domestic subjects in Scotland can also be found on the Scottish Assessors Portal <http://www.saa.gov.uk/>.

If the Assessor does not agree to reduce the valuation you have the right to appeal. You do not have to pay any fee to the Assessor for lodging an appeal.

You must continue to pay your rates bill until your appeal is decided or you may be liable to recovery action by the council. If you succeed in your appeal and your rates bill is reduced, you may receive interest on the amount you have overpaid.

Time Limits for Appeals

You may lose your right to appeal if you do not do so within the time limits. The last date for lodging an appeal is 30 September 2005 or within 6 months of the date of issue of the Valuation Notice, whichever is later.

If you are a new proprietor, tenant or occupier you may appeal against the valuation in force when you took over the property but you must do this within 6 months of acquiring the interest in the property. The Assessor may ask you to produce documentary evidence of the date you acquired the property (e.g. copy lease or disposition etc.).

If your property has been affected by a “material change of circumstances”, which is defined in the Valuation Notice, you may appeal at any time while the valuation roll is in force i.e. from the roll being made up at the 2005 revaluation, until 31 March 2010 and for 6 months thereafter.

You and the Assessor

Even after you have written to lodge an appeal you can still discuss your case with the Assessor on an informal basis to try to reach an agreement.

If you still cannot agree, your appeal will be heard in due course by the VAC for your area.

You can continue to try to reach an agreement with the Assessor at any time before the VAC meets to consider your appeal. If you can reach an agreement, the hearing becomes unnecessary.

The Valuation Appeal Committee (VAC)

The VAC which will consider your case will be chosen from a panel of local people

appointed by the Sheriff Principal in your area.

The VAC will be made up of a chairperson and between 3 and 6 members. They are all unpaid and completely independent of the Assessor and your local council and have no prior knowledge of your case or anything about your property. This information should be presented to the VAC as your evidence in the appeal.

The VAC is assisted by a paid secretary, who is usually a solicitor. The secretary does not take any part in reaching a decision in your case but is there to advise the VAC on legal matters and may take part in the hearing.

Lands Tribunal for Scotland

If you think that your appeal is complicated or highly technical or raises major questions of principle or law, you may wish to consult a chartered surveyor or solicitor before asking the VAC to refer your case to the Lands Tribunal for Scotland.

If you would like your appeal to be considered by the Tribunal you should apply as early as possible and not later than 14 days before your case is due to be heard by the VAC and not later than 6 months before the disposal date for the appeal.

The last date for the disposal of appeals from the 2005 revaluation is 31 December 2008. The last date for the disposal of other appeals may be different. If you are in doubt, please contact the Assessor.

You must write to the VAC and explain why you think your appeal should be referred to the Tribunal and you must send a copy of your application to the Assessor. The Assessor will make comments on your application and you will receive a copy of them.

The Assessor may also ask the VAC to refer your appeal to the Tribunal. If you plan to ask for your appeal to be heard by the Tribunal you may wish to discuss this with the Assessor because, in some cases, it is possible to make a joint application.

If the VAC agrees, it will pass your appeal to the Tribunal and will tell you it has done so. In some cases, legal aid is available for appeals brought before the Tribunal.

If the VAC does not agree it will write to tell you. You can appeal against the decision direct to the Tribunal up to 21 days after receiving notice from the VAC.

If the Tribunal does not agree to accept the appeal, your case will be decided by the VAC.

Withdrawal of appeals

If you decide to withdraw your appeal you should write to the Assessor.

If the Assessor accepts that the reasons you have given in lodging your appeal are well-founded and agrees to accept the value you have suggested, your appeal is considered to be withdrawn. Alternatively, the Assessor may offer to reduce the valuation. If you

accept this offer you would withdraw your appeal. The Assessor will issue a revised Valuation Notice and you will have no further right of appeal unless there is a subsequent change in value or material change of circumstances.

Method of appeal

You can present your appeal personally at a hearing of the VAC, or you can be represented at the hearing by someone else. You can also ask to have your appeal dealt with by written representations without a hearing if the Assessor and the VAC agree.

VALUATION APPEAL COMMITTEE (VAC) HEARINGS

Notice of hearing

At least 70 days before the VAC is to consider your appeal, the secretary will send you a notice giving details of the date, time and place of the hearing. You will receive this at least six months before the time limit for the VAC to dispose of appeals. The details will also be advertised at an office of the rating authority.

If you are unable to attend on the appointed date you should contact the secretary as soon as you receive the notice. The VAC will only agree to change the date if it considers that you have a good reason. The VAC can postpone or adjourn a hearing at any time but it will give you as much notice as possible.

VACs sometimes wait to deal with related

cases together, which is to everyone's benefit. If you think there is any unreasonable delay in setting a date for your hearing, or if the date which is fixed is too far ahead, you may suggest a date at least 70 days in advance for your hearing. If the VAC refuse to hear your appeal at the time you suggest you will be told the reason.

Exchange of information

Before your appeal is heard, you must comply with requests from the Assessor for an exchange of information.

You may also be asked to give written confirmation that you intend to carry on with your appeal. You must reply within the time limit which will be given to you, or your appeal may be dismissed.

Grounds of appeal

If you do not include the information when you write to lodge your appeal, you must send the Assessor a written statement of your grounds of appeal at least 35 days before the hearing.

You must state clearly why you think the valuation is wrong. You must also give the alternative valuation which you think should be substituted.

Within 14 days of receiving your statement, the Assessor must send you a statement of the grounds on which the valuation of your property has been arrived at.

Comparisons with other properties

If you have decided to appeal because you think the value of your property is too high compared with the values of other properties, you must also send the Assessor a list of such comparable properties at least 21 days before the hearing. Details about rateable values of non domestic subjects in Scotland can be found on the Scottish Assessors Portal <http://www.saa.gov.uk/>.

You should include all the properties you wish to tell the VAC about. Any other property mentioned at the hearing will only be considered if the Assessor agrees or if the VAC allows it to be considered; even in such circumstances the appeal may require to be postponed to a later date to allow time for full information about such properties to be obtained.

At the same time, you can ask the Assessor to send you a list of any properties which will be used to support the valuation in the roll. The list must be sent to you at least 14 days before the hearing.

If the Assessor sends you a list of properties first, you must send your list to the Assessor at least 14 days before the hearing.

You can also ask the Assessor at any time up to 56 days before the hearing to send you a list of any plant and machinery included in the valuation of your property.

You do not have to wait until you receive notice of the date of the hearing to send your

statement of grounds of appeal and any list of comparable properties to the Assessor. You can send them earlier, but you must make sure that the Assessor has the information within the time limit.

Representation at the hearing

You may give your evidence to the VAC yourself or you may be represented by any person, whether or not legally qualified. However you cannot be represented by someone who is a member of the panel from which the VAC is drawn.

If you want to be represented by someone else you should notify the secretary of the VAC and give your representative's name. The VAC can refuse to allow any particular person to represent you if it has a good reason for doing so. Ensure that any representative you appoint is completely familiar with the details of your case.

The Assessor may appear in person to give evidence or evidence may be given by a member of the Assessor's staff. In some cases the Assessor may be represented by counsel.

Record of evidence

If you think it is important, you can arrange for evidence given at the hearing to be recorded. You must tell the VAC before the hearing and you must pay the cost of the recording.

The secretary may be able to tell you if the Assessor will be recording the hearing. If so,

if you request it, the Assessor will be able to provide facilities for you to be able to hear the recording.

If you or the Assessor asks for your appeal to be referred to the Lands Valuation Appeal Court, the VAC may ask you to provide a certified transcript of any recording you make. The VAC will pay for any transcript it requires.

Failure to appear

If you or your representative fail to appear at the hearing your appeal may be dismissed and the VAC will notify you.

If you have a good reason for not appearing, you may write to the VAC within 14 days of receiving the dismissal notice - or a longer period if the VAC accepts there are special circumstances - and ask for your case to be heard at a later date.

If the VAC agrees, you will receive at least 7 days notice of the date, time and place of the new hearing.

At the hearing

Members of the public are normally allowed to attend appeal hearings. If you, or someone else concerned with your appeal, has a good reason the VAC may decide to hold the hearing in private.

The chairperson of the VAC is responsible for the way in which the hearing is carried out and will ask you to present your case. In normal circumstances you will be asked to

present your case first but the VAC can decide who will be heard first if this is an issue between the parties.

Oral evidence

If you chose to give oral evidence, you may be asked to take an oath or “affirm” that what you say in your evidence will be the truth.

You should limit your evidence to giving the facts you would like the VAC to consider. The Assessor, or the Assessor’s representative, or any member of the VAC, may ask you questions on your evidence.

If you decide to call witnesses to give evidence to support your case, you should ask them questions which will bring out the facts you would like the VAC to consider. Your witnesses may also be questioned by the Assessor, the Assessor’s representative or any member of the VAC.

You will be given an opportunity to question the evidence put by the Assessor and anyone else involved in your case. You may also question any witnesses called to give evidence to support the Assessor’s case. After all of the evidence has been heard you will be invited to summarise your case and to comment on the Assessor’s evidence but you cannot introduce new evidence at this stage

Written evidence

If you would prefer not to give oral evidence you may provide written statements. If you

do, you will have to supply a copy in advance of the hearing to the Assessor.

The Assessor can object to the written statement, in which case the VAC will decide if it can be accepted. Even if you put your case in a written statement, you will still be able to question the case put forward by the Assessor.

Disposal by written representations

You may decide that you do not want to attend the hearing at which the VAC will consider your case. You may feel, for example, that you can state your case clearly in a letter.

If you prefer to have your case dealt with by written representations you should tell the secretary to the VAC who will consult the Assessor. If the Assessor agrees, you will have four weeks in which to send your case to the secretary. If your appeal relates to matters of value you must state the valuation which you consider should be entered in the roll and the grounds on which it has been arrived at.

If the Assessor disagrees with the grounds of your appeal, you will be told the reason and you will have four weeks to comment on it. The Assessor will then have another four weeks to reply and at the end of that period, the secretary will report to the VAC.

The VAC may decide to a) ask for further information, b) order that your appeal should be dealt with at a hearing or c) agree to consider your case by written representations.

If you wish, you can withdraw your case after reading the Assessor's comments or at any time before the VAC reaches a decision.

Decision

The VAC may tell you its decision at the end of the hearing or at an adjourned hearing or you may be told later in writing. Where a decision is given orally, you will receive written confirmation of the decision within three days. In all cases you will also receive, in writing, the reasons for the decision.

Appeals against the VAC's decision

If you are not satisfied with the VAC's decision you may appeal to the Lands Valuation Appeal Court. The Assessor also has a right of appeal to the court.

If you decide to appeal, you should write within 14 days to the secretary asking the VAC to prepare a "stated case" for presentation to the court. The VAC will draw up the "stated case" based on the facts established at your hearing.

When you write to the secretary, you must state your grounds of appeal and send a copy to the Assessor. You will be sent a copy of any answers the Assessor may make to your grounds of appeal.

To assist with the preparation of your appeal, you can ask the secretary for a transcript of any recording of the evidence which may have been made at your hearing. There will be no charge for a transcript.

The secretary will send a draft of the “stated case” which the VAC proposes to make to you and to the Assessor.

You can write to the secretary to ask for amendments to be made to the “stated case” before it is put before the court.

The Assessor can comment on your request in the same way, you can comment on any amendments to the “stated case” which the Assessor may ask for.

If the VAC agrees, the “stated case” will be amended and finalised. The secretary will then provide you with the principal signed copy of the case and any written statements or other documents lodged at the hearing. You should then lodge the case and evidence together with the relevant number of copies (as required by the court) in the Court of Session. The case will then be listed for hearing by the Lands Valuation Appeal Court.

Legal representation

You may wish to seek legal advice before deciding to ask for your case to be referred to the Lands Valuation Appeal Court. You may be entitled to full legal aid, including representation at the court hearing.

Finding out more

These appeal procedures are set out in detail in The Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts)(Scotland) Regulations 1995 (S.I. No. 572/1995). Copies may be obtained at main

public libraries and can be purchased at The Stationery Office bookshops. If you would like advice on professionally recognised rating advisers, call the Royal Institution of Chartered Surveyors Contact Centre on 0870 333 1600. The Contact Centre will also provide the enquirer with the opportunity to be referred to a local specialist who will provide 30 minutes of free advice.

Procedure in appeals to the Lands Valuation Appeal Court is governed by regulations (Acts of Sederunt) made by the Court of Session.

This leaflet is available on the Scottish Executive's web site on www.scotland.gov.uk under Publications.



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