

## Response ID ANON-CS83-YP4S-H

Submitted to Consultation on reforming the non-domestic rates system: proposals, the draft valuation roll, content of valuation notices, etc.  
Submitted on 2021-12-15 15:55:15

### The draft Valuation (Proposals Procedure) (Scotland) Regulations 2022

1 Do you have any comments on the draft Valuation (Proposals Procedure) (Scotland) Regulations 2022? We are particularly interested to hear your views on the exchange of information between parties and the different timescales involved.

Please provide your comments in the text box below:

#### Regulation 1 – Citation and commencement

- No comments

#### Regulation 2 – Interpretation

- No comments

#### Regulation 3 – Sending documents by electronic communication

- We support the use of electronic communication, where possible, and suggest it should be mandatory for professionally advised ratepayers.

#### Regulation 4 – Application

- No comments

#### Regulation 5 – Proposal Requirements

- There is an onus on the appellant to provide a substantial amount of information up front at the proposal stage to allow for ratepayers to lodge a protective appeal. This is overly onerous at this stage, particularly in respect of revaluation appeals. We would suggest that there should be no requirement to include detailed grounds at this stage. This leverages all pressure on to the appellant and is a potentially off-putting change to current practice for those considering an appeal.
- The nature of our members' properties are complex in nature as they are made up of a number of different items, including building, civil works, plant, tanks, siteworks and land. A proposal on one of our member's properties will be extensive and time consuming to prepare. Our reading of the proposal is the intention the Assessor will not provide any information on how the valuations have been arrived at. The absence of information provided by the Assessor prior to a proposal being submitted our members would welcome more transparency from the Assessor in advance of any proposal being submitted.
- Professional individuals acting on behalf of our members: It will be impossible under the proposed regulations for professional surveyors to adequately represent our members and execute the vital professional services embodied in the Royal Institution of Chartered Surveyors. The requirement to lodge information and detailed grounds at the proposal stage will widely prejudice ratepayers' ability to access the rating system and result in widespread unfairness and disadvantage.

#### Regulation 6 – Incomplete Proposals

- 6(1) – we would suggest that the word “must” be removed and be replaced with “may”. This gives the opportunity for any queries found within a proposal to be considered and rectified where possible without the need for formal review. An option that is explored in 6(3)(b)

#### Regulation 7 – Acknowledgement of appeal

- The Assessor is only required (no later than 70 days before the PDD) to provide, in response to the Proposal, the basis on which the entry in the valuation roll is arrived at. We believe that this could lead to generic statements to a proposal regarding the basis of valuation, this is in contrast to requirements for submitting a valid proposal.

#### Regulation 8 – Withdrawal of proposal after intimation to the assessor

- No comments

#### Regulation 9 – Notice of proposal determination date and request to alter timing

- No comments

#### Regulation 10 – Information to be provided by assessor and proposer

- The requirement for the Assessor to provide a written statement setting out the basis of his valuation must be before detailed grounds are required. The Assessor should be required to provide more than just a “written statement setting out the basis for the terms of the entry in the valuation roll...”. The assessor should be required to provide the same level of information that is required to be provided by the proposer in Regulation 5.

#### Regulation 11 – Information to be provided to the proposer

- No comments on the existing (1) and (2).
- Plant & Machinery requests based on the proposals, can only be requested once a PDD is issued, which can only be issued once a detailed proposal is lodged. This is counterintuitive; this information must be available to the ratepayer before detailed grounds can be lodged. As stated above, our members' properties contain a large proportion of plant and machinery. The absence of information available to our members prior to the submission of proposal will be prejudicial.

#### Regulation 12 – Provision of additional evidence by the proposer

- 12(2) – the phrase “does not exist at the time of the proposal” - does that also extend to and include evidence that was not known at the time of the proposal? Clarity is required.
- (2) and (3) – we contend taking out the word “may” and replacing with “should”. This is more definitive.
- (3) – remove the element of agreement from both sides – if the further evidence was not provided previously under Regulation 5(d)(iv), but was in existence at the time and not known to the proposer, then it should be considered as pertinent to be included within the proposal. This right should extend to both parties without the need for agreement from the other. The Assessor should not be allowed to exclude any evidence, it goes against the principles of fairness and transparency set out in Barclay.
- (4) – only 14 days, from the assessor's written statement, to introduce new evidence as the proposer - The current timescale of 14 days appears too restrictive with no clear justification for the timeline and should be extended to 28 days.

#### Regulation 13 – Postponement of decision on proposal

- This section lacks parity and falls too heavy in the favour of the Assessor. If the right to postpone the PDD remains in legislation, this ability should also be extended to the proposer.

#### Regulation 14 – Relaxation of timescales

- No comments

#### Regulation 15 – Notice of decision on a proposal

- The draft proposals don't go far enough to protect the ratepayer should the Assessor fail to issue a decision on a proposal. There is a 14-day period to appeal where the Assessor has failed to make a decision, this could lead to situations where the Assessor deliberately fails to issue a decision as the 14-day period doesn't give sufficient time. There should be consequences in place where the Assessor does not make a decision, for example, the proposal is automatically accepted.

#### General Points of Observation

The justification for change of procedure:

One of the Barclay recommendations states that, 'Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness'. We fail to see how the draft proposals, if implemented, would achieve this recommendation.

It is recognised within the consultation policy background that the vast majority of appeals are currently settled amicably between the assessor and the appellant. This confirms that the appeal procedures as currently exist work well and there is no justification to change the established procedure. The only requirement, which is entirely recognised as necessary, is that the timeframe for disposing of revaluation appeals needs to be adjusted in line with the welcome move to 3 yearly revaluations.

The Scottish Government should consider a phased approach to the draft Regulations to make the process as smooth as possible. With everything changing at once, for all, there risks the potential for any unforeseen issues to also come to a head at once.

The new legislative changes and number of amendments are vast. We suggest making the NDR legislation afresh so as to avoid confusion when jumping between historical referenced statutory instruments.

Addressing the number of appeals:

It is a continuing feature of these consultations that the SG is concerned by the number of appeals made against assessments appearing in the valuation roll. To address this, we would suggest the evidence the assessor has should be made available to the ratepayer earlier in the process, then the number of proposals and appeals would fall significantly. The need for transparency has been highlighted by other ratepayer representatives and trade organisations and would also be supported. Under the proposed system the only way a ratepayer can obtain relevant detail as to how their valuation is arrived at is by lodging a proposal, and only when a ratepayer has submitted a proposal with all of the evidence that they have available is the Assessor required to respond with corresponding information detailing the evidence upon which their valuation is based.

Complexity of the system and timelines:

On the complexity of the proposal system and associated timelines, a recommendation of the Barclay review was "to seek to ensure that the administrative systems and processes surrounding the rates system are as simple and straightforward as possible". The proposed system simply does not support this recommendation; we suggest a more informal system that allows for negotiation and free exchange of information. "A further general view among ratepayers is that stability and certainty are important and that radical ideas could lead not just to uncertainty but also potentially to significant shocks to the rates system, both to ratepayers and Government revenues." The new regulations are radical and definitely impact the stability of the appeal process. Directly contradicting the quoted outcome from Barclay.

It is submitted that the proposal and appeal procedure is capable of functioning under a compressed time schedule without the need to impose impractical burdens on the ratepayer at the proposal submission stage. This unduly complicates the system and is contrary to the recommendations and key principles of the Barclay review, notably in delivering fairness and simplicity. It prevents access to justice for ratepayers and fails to recognise that the existing system has functioned well with the vast majority of appeals being settled amicably. The new system of 3 yearly Revaluation cycles should be given time to operate and succeed within the remit of the existing system.

## The draft Valuation Timetable (Scotland) Amendment Order 2022

### 2 Do you have any comments on the draft Valuation Timetable (Scotland) Amendment Order 2022?

Please provide your comments in the text box below:

We would like to reiterate the suggestion of the creation of new/fresh, redraft of NDR legislation. There are several new legislative changes and the number of amendments to legislation could cause greater confusion when referencing historic pieces of legislation and their respective amendments.

## The draft Valuation Timetable (Scotland) Amendment (No.2) Order 2022

### 3 Do you have any comments on the draft Valuation Timetable (Scotland) Amendment (No.2) Order 2022?

Please provide your comments in the text box below:

#### Regulation 1 – Citation and commencement

- No comments

#### Regulation 2 – Amendment of the principal Order

- In relation to Section 3ZA(2)(d) of the Local Government (Scotland) Act 1975 – It is submitted that a ratepayer should be entitled to lodge an appeal on the basis of error (section 2(1)(f) of the Act) at any time whilst the Roll is in force, in the same way as currently exists. The whole basis of an "error" appeal is that the entry is in fact "incorrect". Therefore, to limit an error appeal to 31 July in the year of revaluation or 4 months after the date of a valuation notice is unfair. Any error should be corrected and challengeable at any time.

- Removal of "Alleged" – The word alleged should be removed as it suggests that the appeal may not actually be an MCC, already questioning the integrity of the MCC proposal. We suggest the wording should mirror phrasing in current legislation.

- MCCs – the very nature of an MCC is that it is material and affects value and case law has dictated throughout the years that it cannot be too transient. Restricting MCCs to 4 months is unreasonable, certain MCCs cannot be substantiated within a 4-month period. Further, it is likely to encourage more MCC proposals to be made to ensure a ratepayer's interests are protected.

- We contend that the draft Regulations allows for the Assessor to have too much time to issue a decision on a proposal. The 30th of June 2025 is too late for our members. Our members' properties are highly complex and work on any proposal has to start earlier in the process. Historically the Scottish Assessors have discussed the appeals on our members' properties in the final 12/18 months of a revaluation cycle due to the complexity and time-consuming nature of the discussions. To achieve outcome for the 2023 Revaluation and beyond, discussions between the Assessor, the ratepayer or

their representative has to commence earlier in the process.

- The 14-day time limit to appeal an Assessor's decision is too tight, 14 days is not enough time, it doesn't allow for suitable time for consideration particularly around holiday season. We suggest that 21/28 days is more appropriate.

## The draft Valuation Roll and Valuation Notice (Scotland) Order 2023

### 4 Do you have any comments on the draft Valuation Roll and Valuation Notice (Scotland) Order 2023?

Please provide your comments in the text box below:

Regulation 1 – Citation, commencement and interpretation

- We would like to reiterate their suggestion of the creation of new/fresh, redraft of NDR legislation. There are several new legislative changes and the number of amendments to legislation could cause greater confusion when referencing historic pieces of legislation and their respective amendments.

Regulation 2 – Form of valuation roll

- No comments

Regulation 3 – Form of valuation notice

- The Barclay Review confirmed that the Assessor should include the reason for the issue of the Valuation Notice. We also contend that the Assessor should also include a copy of his full and detailed valuation of how the RV was arrived at.

Regulation 4 – Amendment of Valuation Roll and Valuation Notice (Scotland) Order 1989

- No comments

Section 1 – Lodging a proposal and appeal.

- No comments

Section 2 – Appeal hearing

- No comments

Section 3 - Referral to the Upper Tribunal for Scotland

- No comments

Section 4 – Time limits for making a proposal

- Replace the word alleged with considered.

Section 5 - Time limits for bringing an appeal

- We reiterate that 14 days is too tight a timeframe to lodge an appeal. We suggest 21/28 days as an alternative.

Section 6 – Time limit for bringing and appeal where no proposal determination date has been set

- If Assessor accepts a proposal as complete, then they should be in a position to set a PDD.

Section 7 – Power of assessor to change a valuation roll before roll comes into force

- 7(b) – No Comment

- 7(e) – should be removed as not necessary.

Section 8 – Powers of assessor to change a valuation roll after roll comes into force and issue new valuation notice

- No comments

## The draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022

### 5a) Do you have any comments on the draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022?

Please provide your comments in the text box below:

- The draft regulations confirm the additional requirements to be included within the valuation notices of some 'bulk' class properties such as standard shops, offices and industrial properties. The regulations do not provide guidance for our member properties that have been valued in relation to cost based approach. It is imperative that assessors are transparent with how they have arrived at the valuation.

5b) What are your views on whether or not it is appropriate to use The Town and Country Planning (Use Classes) (Scotland) Order 1997 to describe the property types covered by the requirement to set out the location of similar properties whose rental evidence has been considered?

Please provide your comments in the text box below:

- We contend that referring to the Use Class Orders is flawed; the assessor does not always consider the planning use class when determining how to value specific properties. We suggest existing descriptions should be used by Assessors.

5c) What are your views on whether additional requirements should be set out for the information to be included in valuation notices for all or some lands and heritages?

Please provide your comments in the text box below:

- Some information used in valuations is commercially sensitive. As mentioned previously Notices should state the specific section of the 1975 Act (as amended), that the Assessor has founded upon to alter to the Valuation Roll.

## About you

What is your name?

Name:  
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What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:  
UK Petroleum Industry Association

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:  
Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:  
Very satisfied

Please enter comments here.: