

Local Government, Housing and Planning Committee

22nd Meeting, 2023 (Session 6)

Tuesday, 26 September 2023

SSI cover note for: Valuation (Proposals Procedure) (Scotland) Amendment Regulations 2023

SSI 2023/207

Title of Instrument: Valuation (Proposals Procedure) (Scotland) Amendment
Regulations 2023

Type of Instrument: Negative

Laid Date: 19 July 2023

Circulated to Members: 28 July 2023

Meeting Date: 26 September 2023

Minister to attend meeting: No

Motion for annulment lodged: No

**Drawn to the Parliament's attention by the Delegated Powers and Law Reform
Committee?** Yes

Reporting deadline: 23 October 2023

Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on this instrument.

2. An electronic copy of the instrument is available at:
<https://www.legislation.gov.uk/ssi/2023/207/contents/made>

3. Copies of the Scottish Government's Explanatory and Policy Notes are included in **Annexe A**.

Purpose

4. The Policy Note explains that the purpose of this instrument is—
“to amend the Valuation (Proposals Procedure) (Scotland) Regulations 2022 to extend the deadline for lodging a proposal in relation to a valuation notice to 31 August 2023, or to a date four months after the sending of the valuation notice to the proprietor, tenant or occupier if later. The deadline is currently set in schedule 1 of the Valuation Timetable (Scotland) Order 2022, and is 31 July 2023 or a date four months after the sending of the valuation notice to the proprietor, tenant or occupier, whichever is later.”
5. The Policy Note further explains that “The objective of this instrument is to ensure sufficient time within the new non-domestic rates proposals and appeals system to lodge proposals in relation to a valuation notice issued under section 3(2) of the Local Government (Scotland) Act 1975.”
6. The extended deadline applies for 2023 revaluation year only.

Delegated Powers and Law Reform Committee consideration

7. At its meeting on 6 September 2023¹ the DPLR Committee considered the instrument and agreed to draw it to the attention of the Parliament under reporting ground (j) for failure to comply with the laying requirements in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. The 2010 Act provides that “instruments subject to the negative procedure must be laid at least 28 days before they come into force, not counting recess periods of more than 4 days,” The instrument breaches this requirement as it was laid on 19 July 2023 and came into force on 20 July 2023.
8. However, the DPLRC Committee was content with the Scottish Government's explanation for this breach of the laying requirements, as set out in correspondence to the Presiding Officer (see [annexe](#) to DPLR Report)

Procedure for Negative Instruments

¹ <https://digitalpublications.parliament.scot/Committees/Report/DPLR/2023/9/6/d198aeb9-f44f-47e4-9824-6bf4c999f95f#6f385e6e-dcae-4a24-ad12-0bd4fbf6c54b.dita>

9. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

10. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

**Clerks,
Local Government, Housing and Planning Committee**

Annexe A

Scottish Government Explanatory Note

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Valuation (Proposals Procedure) (Scotland) Regulations 2022 (“the 2022 Regulations”).

Regulation 2 inserts a new regulation 17A into the 2022 Regulations. This provides that, for the revaluation year 2023-24 only, the deadline for lodging a proposal in relation to a valuation notice issued under section 3(2) of the Local Government (Scotland) Act 1975 is extended. The extension is from 31 July 2023 to 31 August 2023 or, if later, to a date four months after the sending of the valuation notice to the proprietor, tenant or occupier of the property in question. Consequently, for the revaluation year 2023-24 the deadline set out in column 2 of the fifth entry in the table in schedule 1 of the Valuation Timetable (Scotland) Order 2022 does not apply.

POLICY NOTE

**THE VALUATION (PROPOSALS PROCEDURE) (SCOTLAND)
AMENDMENT REGULATIONS 2023**

SSI 2023/207

The above instrument was made in exercise of the powers conferred by section 3ZA(7)(a) of the Local Government (Scotland) Act 1975. The instrument is subject to the negative procedure.

The purpose of this instrument is to amend the Valuation (Proposals Procedure) (Scotland) Regulations 2022 to extend the deadline for lodging a proposal in relation to a valuation notice to 31 August 2023, or to a date four months after the sending of the valuation notice to the proprietor, tenant or occupier if later. The deadline is currently set in schedule 1 of the Valuation Timetable (Scotland) Order 2022, and is 31 July 2023 or a date four months after the sending of the valuation notice to the proprietor, tenant or occupier, whichever is later.

Policy Objectives

The objective of this instrument is to ensure sufficient time within the new non-domestic rates proposals and appeals system to lodge proposals in relation to a valuation notice issued under section 3(2) of the Local Government (Scotland) Act 1975.

The extended deadline applies for 2023 revaluation year only.

The deadline for proposals will be the later of 31 August 2023, or a date four months after the sending of the valuation notice to the proprietor, tenant or occupier of the property in question.

The instrument also clarifies that, given that this instrument makes special provision for the deadline in the current revaluation year, the deadline set out in the Valuation Timetable (Scotland) Order 2022 will not apply for this 2023 revaluation year.

These changes are necessary to ensure that those who wish to do so are in a position to exercise their rights to challenge valuations set at the current revaluation, given that with effect from 1 April 2023, a new system for challenge has been put in place alongside a number of other reforms of the non-domestic rates system.

Consultation

Under the New Deal for Business Group, which was established following the Policy Prospectus commitment to reset the relationship between government and business, a consultative sub-group was established to consider further enhancements to the operation and administration of the non-domestic rates system.

As part of the sub-group's discussion, some business representatives indicated more time was required to lodge proposals and asked that urgent consideration be given to extending the deadline for lodging proposals from 31 July 2023 to 30 September. While other members expressed concern in relation to this suggestion, the progress report of the New Deal for Business¹, included this and other recommendations of the non-domestic rates sub-group, and was published on 29 June 2023.

The Scottish Government has agreed to extend the deadline for lodging proposals to the later of 31 August 2023, or four months after the sending of the valuation notice to the proprietor, tenant or occupier of the property. This extension period provides a balance between allowing ratepayers extra time to lodge any proposals they are considering, and maintaining the integrity of the three-yearly revaluation cycle.

Impact Assessments

As these regulations extend the deadline for proposals to be lodged, no impact assessments were considered necessary. It is not considered there will be any impact persons within protected groups, the instrument does not involve a change in data controller or the data to be processed, nor are there any children's impact issues arising.

Financial Effects

The Minister for Community Wealth and Public Finance confirms that no BRIA is necessary as the instrument has no direct financial effects on the Scottish Government, local government or on business.

Scottish Government
Local Government and Housing
Directorate July 2023

A letter from the Minister for Community Wealth and Public Finance to the Presiding Officer

19 July 2023

Dear Presiding Officer

THE VALUATION (PROPOSALS PROCEDURE) (SCOTLAND) AMENDMENT REGULATIONS 2023

The Valuation (Proposals Procedure) (Scotland) Amendment Regulations 2023, SSI 2023/207 was made by the Scottish Ministers under section 3ZA(7)(a) of the Local Government (Scotland) Act 1975. It is being laid before the Scottish Parliament on 19 July and also comes into force on 20 July.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

The independent Barclay Review of Non-Domestic Rates called for reforms to the appeals system to modernise the approach, reduce appeal volume and ensure greater transparency and fairness, and a new two two-stage appeals system was introduced on 1 April 2023.

Where non-domestic property owners and occupiers have evidence that a rating valuation is incorrect, they have the option to lodge a proposal and then, in prescribed circumstances, an appeal. Under the current timescales, prescribed in the Valuation Timetable (Scotland) Order 2022, they have until 31 July 2023, or 4 months after the receipt of their valuation notice, whichever is later, to submit a proposal in relation to the 2023 revaluation to the assessor.

A New Deal for Business Group (NDBG) was established in May following the Policy Prospectus commitment to reset the relationship between government and business, and under the main NDBG, a consultative sub-group was established to consider the current operation and administration of the non-domestic rates system with the objective of ensuring the best environment to do business and deliver a growing economy whilst supporting our communities.

The sub-group, which I chaired, met four times and had a large and diverse membership from business representative organisations, local authorities and Scottish Assessors. During those discussions some business representatives indicated that the current timescales for proposals were challenging and more time was required than the current deadline provides. While some members indicated concern in relation to this, it was recommended that urgent consideration be given to extending the deadline for lodging proposals from 31 July to 30 September 2023. This recommendation was included in the [progress report of the New Deal for Business](#), which was published on 29 June 2023 and has since been accepted by the First Minister.

These Regulations extend the 31 July 2023 deadline to 31 August 2023 to provide ratepayers additional time to lodge proposals in relation to a valuation notice issued under section 3(2) of the Local Government (Scotland) Act 1975. The extended deadline applies for the 2023 revaluation year only, in recognition that businesses are navigating a new process which was introduced on 1 April 2023 amongst a number of other reforms to the non-domestic rates system in recent months. An extension of one month provides ratepayers with additional time to lodge a proposal while seeking to prevent unintended consequences and protect the integrity of non-domestic rates system in a compressed revaluation cycle.

After the New Deal for Business Group's recommendations were published, the Scottish Government took the time to carefully consider the recommendation and to understand the range of stakeholders' views on this issue. Alternative approaches to address this recommendation were explored, including through an administrative route but this would open the new proposal system to further risk and challenge as it would operate contrary to the existing legislation.

The Scottish Government has sought to make, lay and bring into force this instrument as soon as possible following the publication of the New Deal for Business Group's recommendations. On this occasion, it has not been possible to meet the requirements of section 31(3) given the immediacy of the current 31 July deadline. To do so, would require retrospective amendment and we do not have power to make retrospective provision. It could also lead to uncertainty and confusion for both ratepayers and assessors, and further risk the efficient delivery of the revaluation cycle.

TOM ARTHUR

¹ <https://www.gov.scot/publications/new-deal-business-group-progress-report-recommendations/>.