

# **Reforming the non-domestic rates system: proposals, the draft valuation roll, content of valuation notices, etc.**

## **Analysis of Consultation Responses**

**April 2022**

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## **Executive Summary**

On 22 September 2021, the Scottish Government launched a ‘Consultation on reforming the non-domestic rates system: proposals, the draft valuation roll, content of valuation notices, etc.’. This sought views on reforms to the non-domestic rates system in the context of three-yearly revaluations and a one-year tone date from 2023, as well as the introduction of a two-stage appeals system scheduled to be introduced on 1 January 2023.

The consultation closed on 15 December 2021 and received 37 responses all of which were from organisations. A list of respondents and links to their responses is available in Annex A where permission has been given to publish these responses. We would like to express our sincere thanks to those that submitted a response to the consultation.

### **Summary of responses**

The consultation asked for views on five draft Scottish Statutory Instruments (SSIs):

- the draft Valuation (Proposals Procedure) (Scotland) Regulations 2022
- the draft Valuation Timetable (Scotland) Amendment Order 2022
- the draft Valuation Timetable (Scotland) Amendment (No. 2) Order 2022
- the draft Valuation Roll and Valuation Notice (Scotland) Order 2023
- the draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022

In summary, respondents expressed concern over the procedures and timescales set out in the draft Valuation (Proposals Procedure) (Scotland) Regulations 2022, particularly the information-sharing requirements at the point of lodging a proposal. A publication date of 30 November the year before revaluation for the draft roll was broadly welcomed by some of those who commented on this point the provision of additional information in the draft Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022. Many however called for the provisions to go further, and stated that it was unfair, particularly at the point of lodging proposals, that some property types would have additional information provided in the valuation notices, and others would not.

### **About the analysis**

As with all consultations it is important to bear in mind that the views of those who have responded may not fully reflect the views of the wider population. Individuals (and organisations) who have a keen interest in a topic – and the capacity to respond – are more likely to participate in a consultation than those who do not. This self-selection means that the views of consultation participants cannot be generalised to the wider population.

It is worth noting that a significant number of responses had very similar wording in some parts, and also that a number of the organisations who responded are also members of other organisations that provided a response.

For this reason, the approach to consultation analysis is primarily qualitative in nature. Its main purpose of this analysis is not to identify how many respondents held particular views, but rather to understand the full range of views expressed.

### **Next Steps**

Responses to the consultation have informed policy development in relation to the draft SSIs that were consulted on. Additional analysis of the information received in response to this consultation can be found below.

## **Detailed Analysis**

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

All of the respondents who commented on the use of electronic communication supported this method for sending documents where possible, including British Holiday & Home Parks Association, Drax Hydro Limited, SAUDE, and Whitbread Group PLC. Gerald Eve LLP even suggested that electronic communication “should be mandatory between the assessor and professionally advised ratepayers”.

The majority of responses raised concern with the proposal procedures, particularly the information-sharing requirements at the point of lodging a proposal. The Scottish Business Ratepayers’ Group noted: “Our view is that the current proposals, if implemented as currently set out, will create positions where such appeals will fall to be dismissed due to the inability of appellant ratepayers to provide the level of detail required to create successful proposals.” They further highlighted that: “The proposals, as set out, will severely restrict the ability for any natural justice within the process and limit the ability of expert witnesses to appear before any future Tribunal.”

British Holiday & Home Parks Association added that “[under] the proposed system the only way a ratepayer will be able to obtain relevant detail as to how their valuation is arrived at is by lodging a proposal. 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.” It concluded, and BNP Paribas and Avison Young agreed: “it is our view the draft Regulations are not fit for purpose, incompatible with the purpose of the Roll being maintained fairly and accurately and prejudicial to ratepayers’ abilities to check and challenge their rating assessments properly and without onerous conditions”, a point echoed by Jones Lang La Salle. Whitbread Group PLC and others also thought these reforms “will quickly prove to be unfit for purpose.”

The UK Petroleum Industry Association explained for instance: “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.” The Royal Institution of Chartered Surveyors also explained (this point was made in Avison Young’s response): “one organisation posits that to consider proposals for the 8,000 properties it appealed in 2017 under the new timeframe would allow for just over 45 minutes per subject”. On a practical point, the Scottish Property Federation further pointed out that the Scottish Assessors’ Association’s Portal does not accept attachments and that this will be a problem when lodging proposals given the requirements. CBRE added that if the information-sharing requirements are to remain, the Scottish Assessors’ Associations’ online portal must be adapted to cope with any changes.

Colliers deemed that the proposed regulations were “obstructive” and called for the proposal stage to “encourage open information sharing”. Their response asked: “How can a ratepayer make an informed decision on whether a proposal is necessary without being furnished with a full detailed breakdown of the valuation and

the full details of the evidence which has been utilised to value or establish schemes of valuation and details of how the Assessors have analysed and weighted this information?”. They concluded: “These proposed additional requirements will result in a less fair and transparent system”.

J & E Shepherd Chartered Surveyors stated: “the draft proposals set out an unwelcome and unhelpful sledgehammer in an effort to crack what is, at worst, a troublesome nut. What is proposed is an unwieldy and over engineered procedure that we believe would be of no benefit to anybody”. BNP Paribas and Avison Young also noted: “The proposed procedures show a lack of understanding of the scale and complexity of the valuation, negotiation and appeal settlement process”.

The Scottish Property Federation wrote: “The regulations have [...] sought to restrict the ratepayer's opportunities to assess their liabilities, or be redressed for incorrect or inappropriate rating liabilities. This lack of flexibility in the proposed legislation is intended to reduce the number of appeals, but it has come at the price of fairness for ratepayers.”

Another respondent explained that in their view the draft regulations are unrealistic, unfair and untenable as written. They believe that as a core principle, it should remain open to ratepayers to lodge a proposal freely at the beginning of the revaluation process with exchange of information timetabled by Assessors.

Moray Council also highlighted: “the proposed new regulations will make it very difficult for Ratepayers with large property portfolios (such as Local Authorities) to assess timeously the veracity of proposed Rateable Values and consider whether appeals are appropriate.”

British Holiday & Home Parks Association stated: “it is unlikely that any unrepresented lay ratepayer would be in a position to comply with the requirements for lodging a proposal”, a point echoed by CBI Scotland and the Scottish Chambers of Commerce. J & E Shepherd Chartered Surveyors and BNP Paribas Real Estate also speculated that unrepresented ratepayers may, in particular, be disproportionately prejudiced by the proposed changes and Jones Lang La Salle wrote that the new system is “far too onerous on lay ratepayers”. The Federation of Small Businesses stressed: “we would urge you to ensure the reforms to the appeal system in Scotland deliver a system which is both affordable and accessible to smaller businesses.”

As pointed out by Gerald Eve LLP: “it will be extremely challenging under the proposed regulations for advisors to adequately represent their clients and act in accordance with the requirements of their professional bodies (...) As the draft stands, this will only have the effect of ratepayers holding back with proposals until the very last minute and this cannot be a desired outcome and will create greater administrative pressures on Assessors.”

GL Hearn “accepts that shortening the overall time the process takes is reasonable due to the fact that the work carried out within the normal revaluation quinquennium is being compressed into three years, [but] we do not accept that the changes proposed in the draft Valuation (Proposals Procedure) (Scotland) Regulations 2022

and the Non-Domestic Rates (Scotland) Act 2020 achieves this in way that is fair to ratepayers.” They further added: “it is reasonable that grounds of appeal are stated at the point of lodging a proposal however we believe that the 70 day period from the issue of a Proposal Determination Date should be used to explore these grounds of appeal with the Assessor to establish whether they are well founded or not.”

The joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland also explained: “the proposal for significant up-front work will place both an unacceptable time pressure on our members (and their advisors) but also result in a corresponding additional cost.”

The majority of responses thought that four months to lodge a proposal was insufficient. BNP Paribas wrote for instance: “Limiting the time-span for proposals to be lodged after 1st April 2023 to only four months – particularly given the suggested depth and detail required in a proposal - is wholly unrealistic and it has to be said, wholly prejudicial to the ratepayers ability to check and challenge their assessments.”

A number of responses pointed to the principles of the Barclay Review. Gerald Eve LLP for example stated: “The Barclay Review stated that the appeal system should be based on fairness, consistency, transparency, simplicity and accountability. These should be considered when reviewing the new Regulations.” Others stated, such as J & E Shepherd Chartered Surveyors, Scottish Business Ratepayers Group, and CBI Scotland that these reforms failed to meet the Barclay Review’s recommendation that “Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness”. “The ingredients all seem to be in place for systemic breakdown” they explained, on the basis that a similar number of proposals will be lodged as appeals in previous cycles but within a very limited period of time. The Scottish Chambers of Commerce concluded: “The proposed regulations, we do not believe, aligns with the Barclay Review recommendations and further consultation with businesses is urgently needed before these proposed regulations are brought into effect.”

Suggestions to improve the proposal procedures included:

- That ratepayers be allowed to lodge a proposal on draft values prior to 1 April in a revaluation year (J & E Shepherd Chartered Surveyors, Rating Surveyors’ Association, Scottish Business Ratepayers Group, Avison Young).
- That the requirement to provide grounds (Drax Hydro Limited), evidence to support the grounds of the proposal and/or a statement as to how the evidence support the grounds of the proposal at the point of lodging a proposal be removed (Scottish Business Ratepayers’ Group, SAUDE, BNP Paribas, Colliers, Whitbread Group PLC, Avison Young).
- That the proposed Proposal Determination Date (PDD) trigger statutory information-sharing timescales between the parties rather than there be a requirement for information to be lodged upfront (e.g. British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, SAUDE, Whitbread Group PLC). As stated by WYM Rating, “[our] suggestion would be to maintain the current position, where at the first proposal stage, no detailed information or format is required.”

- That the current “35-day rule” as the point where detailed grounds are required to be provided before the hearing be ‘retained’ for the PDD.
- That there be a longer deadline to lodge a proposal (Colliers) e.g. up to six months or 30 September in a revaluation year (Cushman and Wakefield, J & E Shepherd Chartered Surveyors, Scottish Business Ratepayers’ Group, BNP Paribas, GL Hearn, CBRE, Scottish Chambers of Commerce, GL Hearn), whichever is later. CBI Scotland suggested a minimum of 12 months to lodge a proposal for multi-site occupiers.

Other responses pointed to the potential benefits of the changes. Edinburgh Council noted: “Edinburgh welcomes improvements to the administrative process which discourages speculative blanket appeals from agents. This in turn will have a positive impact on the timescales for the exchange of information as the eligible appeal case load could be smaller.” The Scottish Assessors’ Association stated: “What is key to the new system is that proposals are served with meaningful information so at the outset that the assessor can address the proposals as quickly as possible.” The Rating Surveyors’ Association wrote: “We also support the provisions for information as set out in Section 5, but effort should be made to make adhering to such requirements as simple as possible”. The Scotch Whisky Association added: “[we] remain concerned about decreased access to lodging appeals, although we understand the policy intention to enable the system and processes in a way that causes the need for fewer appeals, which would be welcomed by all.”

Others supported the reforms but only if the Assessor provides more information on valuations in future. The Royal Institution of Chartered Surveyors for instance stated: “it should also be noted that assessor members believe that thew [sic] new procedure, when combined with full information provision from ratepayers through the assessors Information Notice process, is a fair and reasonable process to challenge rateable values.” Cushman and Wakefield also noted: “We agree with the suggested proposal contents, but only if Assessors are required to provide details of how the assessment has been calculated alongside rental or other evidence used when the draft figures are published on 30 November.”

Colliers wrote that these proposals “[create] the scenario where the Assessors are judge, jury and executioner in relation to proposals and what is deemed to be included”, and the Scottish Business Ratepayers’ Group thought the right to refuse an incomplete proposal placed “free reign on the Assessor to decide if a proposal meets requirements” and “lends too much power to the Assessor”, a point echoed by Jones Lang La Salle and CBRE. The Royal Institution of Chartered Surveyors agreed this provision gave the Assessor “significant power to refuse the merit of a proposal, and little recourse” and Avison Young explained: “There are 14 Assessors in Scotland and each office operates independently. There is no doubt in our experience this section will be interpreted differently across the country.”

A number of respondents suggested that the Assessor should have the power, but not the duty, to refuse an incomplete proposal as is currently proposed. This included for example British Holiday & Home Parks Association, Scottish Assessors’ Association, SAUDE, UK Petroleum Industry Association and Whitbread Group PLC. Gerald Eve LLP explained that “[this] gives the opportunity for any points of detail

requiring clarification or questions within a proposal to be considered and rectified where possible without the need for formal review.”

The Scottish Assessors’ Association thought that giving a proposer 56 days after receiving notice that a proposal is incomplete to make a further proposal was too much. It suggested that the proposer should have 28 days instead to respond to a notice of an incomplete proposal from the Assessor.

A number of responses, such as British Holiday & Home Parks Association, SAUDE, and CBRE raised concern that the Assessor’s written response to the proposal would just be a generic statement. The “requirement for the assessor to provide a written statement setting out the basis of his valuation must be before detailed grounds are required” and “the assessor should be required to provide the same level of information that is required to be provided by the appellant when making a proposal” according to these and other respondents, such as Whitbread Group PLC, and the joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland.

The UK Petroleum Industry Association was of the view that: “The requirement for the Assessor to provide a written statement setting out the basis of his valuation must be before detailed grounds are required.” Another respondent noted there should be an explicit requirement that the written statement must include a specific response to the proposer’s grounds and that the deadline for doing so should be shortened to 14 days after day 35 in line with the submission to retain the 35 day grounds rule. The Scottish Assessors’ Association recommended that the legislation specify that the written statement has to be “in relation to the detailed grounds and evidence on which the proposal was made.”

Gerald Eve Limited called for the written statement from the assessor to be required within 56 days of lodging the proposal.

Numerous responses called for the proposer to have 28 days to respond to the Assessor’s written statement under regulation 10 e.g. the Scottish Valuation Appeal Committees Forum, British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, Cushman and Wakefield, the Rating Surveyors’ Association, SAUDE, UK Petroleum Industry Association, Whitbread Group PLC. CBRE called for this to be 35 days. Conversely, the Scottish Assessors’ Association supported the proposed period of 14 days.

A number of responses, including Drax Hydro Limited, J & E Shepherd Chartered Surveyors and Scottish Business Ratepayers’ Group pointed to an inconsistency in the timescales for a proposal to be determined and the timescales for requesting a list of plant and machinery from the Assessor. Cushman and Wakefield thought the Assessor’s written statement in response to the proposal should include details of any plant and machinery.

A number of respondents called for regulation 12 limiting the provision of information by the proposer after a proposal has been lodged, to be amended or removed; and for there to be a right to lodge information “that was not known at the time of the proposal” to be lodged after the proposal is made instead (British Holiday & Home

Parks Association, Gerald Eve LLP, Whitbread Group PLC). J & E Shepherd Chartered Surveyors said that regulation 12 “is incompatible with Chartered Surveyors responsibilities and the Assessors’ duty to maintain the Roll. Simply put, any and all relevant evidence should be considered when determining a proposal, whether it is new, old, known about or not known about at the time of the proposal.” A similar point was made by Avison Young. Cushman and Wakefield wrote: “there (...) needs to be a provision for new evidence, when not reasonably available at the time of proposal submission, to be introduced within the ratepayer’s right of response to the Assessor’s written statement.” SAUDE was of the view that: “The assessor should not be allowed to exclude any evidence.” GL Hearn also thought “there is absolutely no valid reason why the Assessor should be allowed to unilaterally block the introduction of relevant evidence and if it remains in the regulations that they can, then there should be a right of appeal to the Tribunal at the point they refuse to accept it.”

GL Hearn explained: “To allow a response to the Assessor’s statement under 10(2) does not add anything to the process if it cannot contain supplementary evidence to rebut the Assessor’s reasoning or if it cannot be used to amend the proposer’s original grounds of appeal.” They further stated; “this [regulation 12] is one of the most ill-conceived parts of the draft regulations and the one which kills off any prospect of amicable discussions on proposals being held.”

A number of respondents, including SAUDE and the UK Petroleum Industry Association, thought that the proposer “should” rather than “may” provide the Assessor with further evidence relating to the grounds of the proposal, if that evidence did not exist at the time the proposal was made.

British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, and SAUDE stated that if the Assessor had a right to postpone a Proposal Determination Date (PDD), then so should the proposer.

There was also concern that the proposer would not be sufficiently protected: “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.” (British Holiday & Home Parks Association, also Whitbread Group PLC). One respondent suggested that the Assessor could abuse this in circumstances where they know the ratepayer is trying to obtain additional information in support of the proposal.

The Scottish Business Ratepayers’ Forum stated: “It is also of concern that Assessors may not issue a PDD. It should be a requirement of Assessors to set a PDD for every proposal. If a PDD is not issued the default position should be that the proposal is deemed to be accepted in full.” GL Hearn thought “[the] Assessor should have to provide written reasons to the proposer on why they have failed to make a decision by the PDD.” British Holiday & Home Parks Association, the Scottish Business Ratepayers Group, SAUDE, Whitbread Group PLC and BNP Paribas thought that the “assessor should recognise that if a proposal is “accepted” and “complete” that must warrant a PDD, there should be no exceptions.”

The Scottish Assessors' Association and the Institute of Revenues, Rating and Valuation both welcomed the fact that one proposal could only be made in relation to one property, therefore making it impossible to lodge in bulk.

The Scottish Assessors' Association raised concern that the absence of a fee to lodge a proposal would mean that proposals would continue to be "lodged as a matter of course and that these will continue to clog the system."

Finally, a number of responses made minor technical recommendations to improve the wording of the regulations.

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

A number of respondents welcomed the publication of a draft revaluation roll on 30 November the year before revaluation including the Rating Surveyors' Association, the Royal Institution of Chartered Surveyors, and GL Hearn while Colliers noted they had "no objection" to this. CBRE and the Scottish Chambers of Commerce however called for a draft roll to be on 1 October the year preceding revaluation, and the Scottish Assessors' Association conversely called for a publication date of 15 January the year of revaluation.

The Institute for Rating Revenue and Valuation highlighted: "It has long been the case that draft valuations are, at stakeholders' request, published at the same time as information on the rate poundage is made available by government. In recent years, announcements on rate poundage have been made later than the date of 30 November proposed by the Order. Thus, further consideration should be given to whether the proposed date is appropriate." It is also noted that "30 November is a holiday for government and other bodies in Scotland. Further, that date could fall on a weekend. Thus, if the date is to remain for final legislation, provision should be made to publish on the first working day after the 30 November." The Scottish Assessors' Association explained however "that where the date specified in Article 2(b) falls on a non-working day, then the legislation allows for that date to be moved to the closest working day after the date prescribed."

BNP Paribas noted: "We welcome the opportunity to have visibility on draft RV's [rateable values] but in practical terms, there is likely to be insufficient time for any meaningful discussions with Assessors. The Christmas break will take care of at least one week (and realistically more) of the timeframe."

The Scottish Assessors' Association further suggested that the current physical "as at date" should be moved to 15 March to reduce the period during which alterations cannot be reflected in the new valuation roll. It also noted that it was "concerned that Section 2(1) (a) of the Local Government (Scotland) Act 1975 does not extend to the omission of parts of lands and heritages and should be amended to ensure that any parts of lands and heritages incorrectly omitted can be added into value".

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

While the Scottish Assessors' Association called for a period of three months to lodge proposals, the vast majority of respondents stated that four months would be

insufficient if the proposed information-sharing requirements at the point of lodging a proposal were retained, and that this was not fair if the Assessor were not required to provide additional information in the valuation notice.

The Scottish Assessors' Association further flagged that: "It should be made clear that a new proprietor, tenant or occupier's right to make a proposal is made within three months of them becoming a proprietor, tenant or occupier, and not on receipt of a notice confirming the change in proprietor, tenant or occupier", a point echoed by the Institute of Revenues, Rating and Valuation. Cushman and Wakefield suggested conversely that the deadline for a new owner, tenant or occupier to lodge a proposal should be six months. Colliers also thought that: "Error appeals and appeals by a new interested party should remain at six months".

One respondent suggested that the Scottish Government should recognise the need for ratepayers, if Assessors are not willing to provide detailed valuations in the Valuation Notice, to be given a greater period of time to engage with the Assessor before providing detailed grounds following a valuation notice in order to consider any challenges against the proposed value.

The Scottish Chambers of Commerce stated: "It is our view that a 4-month window to lodge a Material Changes of Circumstance or Error appeal is far too narrow a timeframe". Cushman and Wakefield, CBI Scotland, the Rating Surveyors' Association, the Scottish Business Ratepayers' Group, SAUDE, and the UK Petroleum Industry Association amongst others agreed. The Institute of Revenues, Rating and Valuation stressed: "the four month time limit for MCC appeals should not be introduced" and GL Hearn noted: "it does not make sense to time limit error appeals at 4 months."

British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP and J & E Shepherd Chartered Surveyors amongst others suggested that a ratepayer should be entitled to lodge a proposal on the basis of error at any time whilst the Roll is in force; and that there should also not be a four-month restriction on being able to lodge a proposal on the basis of an MCC. J & E Shepherd Chartered Surveyors alternatively suggested: "We would recommend 6 months is the period of time in which a MCC proposal should be submitted after the Roll ceases to be in force. Currently MCCs can be lodged at any time, albeit the financial benefit not back-dated before 1st April in the year in which the MCC is lodged."

CBI Scotland also explained: "Restricting material change of circumstance (MCC) appeals to four months would be an unreasonable and counter-productive change to current procedures" and another respondent stated that in their view the current system of being able to submit an MCC appeal at any time and backdating changes to the start date of the material change or 1st April in the year the appeal is served works well.

Cushman and Wakefield thought that "the proposal deadline should be extended to 12 months after the date the MCC first occurred." They also added: "if a property has been adversely impacted by a material change, any rate refunds should be backdated to the date the MCC first occurred rather than 1 April of the financial year in which the proposal was lodged".

Jones Lang La Salle finally highlighted: “these provisions do not even enable the backdating of an MCC reduction into the previous financial year. So where an MCC occurs on 1st March, an appeal lodged on the 1st July would not be fully backdated.”

The Scottish Valuation Appeal Committees Forum pointed out that: “the effect of the new Valuation Timetable is to abandon the longstanding principle that the objective of the timetable was to ensure all appeals from one revaluation are cleared before the next revaluation”; and there were calls for the assessor to be required to dispose of proposals earlier than proposed (June the year before revaluation) – e.g. by end March 2025 (Avison Young, J & E Shepherd Chartered Surveyors), within 12 months of a proposal being made (for instance, Gerald Eve LLP), or within “12 or 18” months of it being made (e.g. Drax Hydro Ltd, British Holiday & Home Parks Association, J & E Shepherd Chartered Surveyors, Scottish Business Ratepayers’ Group, SAUDE). The Rating Surveyors’ Association thought: “The Assessor should be allowed a maximum of 24 months to provide a decision on a proposal or 12 months in the case of MCC proposals”.

The Scottish Assessors’ Association however called for the deadline for disposing of proposals to be 30 September in the year before the next revaluation.

British Holiday & Home Parks Association and J & E Shepherd Chartered Surveyors pointed to the provision relating to “Where a proposal has been accepted but no PDD issued” and called for it to be removed on the basis that every proposal should have a PDD.

Colliers called for the deadline to appeal to be extended to 21 days minimum, while CBI Scotland and the Rating Surveyors’ Association suggested 28 days; British Holiday & Home Parks Association, and the UK Petroleum Industry Association suggested 21/28 days; Cushman & Wakefield wrote: “The appeal deadline should be no less than 28 days after the Assessor’s decision, after the PPD where no decision was issued or after the beginning of the 70 day period before the last date for the assessor to issue a decision, where no PPD has been issued.” The Scottish Business Ratepayers’ Group, CBRE, Scottish Chambers of Commerce, Gerald Eve LLP, the Royal Institution of Chartered Surveyors, Jones Lang La Salle, and GL Hearn amongst others agreed that the period to appeal should be 28 days.

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

While a number of respondents stated that the information to be included in the valuation notice was insufficient, pointing to the lack of parity between the information required to lodge a proposal and that which will be required to be shared by the Assessor in valuation notices, the Scottish Assessors Association highlighted that it already provides additional information, beyond that required by law, on numerous properties by way of valuations published at the Portal, together with copies of SAA Practice Notes.

One respondent noted that the intent of the extra information-sharing requirements by the assessor in valuation notices is positive, however, it only applies to bulk rented classes and not specialist properties.

Colliers called for the following to be provided in the Valuation Notice: property address, unique reference, description, relevant Practice Note number; proprietor, tenant and occupier, rateable value, effective date, deadline date for appealing the value and details of how to appeal.

Numerous respondents called for a full and detailed valuation of how the rateable value was arrived at for all property types, including British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, J & E Shepherd Chartered Surveyors, Rating Surveyors' Association, Scottish Business Ratepayers' Group, SAUDE, BNP Paribas Real Estate, UK Petroleum Industry Association, and the joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland. Moray Council emphasised that: "full information on Assessors calculations/assessments of value should be available."

Many responses also called for the valuation notice to include the reason for issue, for instance British Holiday & Home Parks Association, Gerald Eve LLP, J & E Shepherd Chartered Surveyors, SAUDE, UK Petroleum Industry Association, Colliers, the joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland and Jones Lang La Salle.

GL Hearn wrote: "it should be stipulated in the Valuation Roll And Valuation Notice (Scotland) Order 2023 that the valuation notice should include a full copy of the Assessor's valuation (including a list of plant and machinery) and a summary of the main rents or information on which the valuation is founded. If there is no comparative information then that should be stated clearly."

The Royal Institution of Chartered Surveyors pointed out the mixed views of its members: "to align with the stated intent of the reforms to increase the sharing of information at an early stage, agents suggest the regulations should be expanded to ensure that the full supporting evidence for decisions made is published alongside the Draft Valuation Roll. This is not supported by assessors."

The Scottish Business Ratepayers' Group added: "If the aim is really to reduce the number of appeals served, then full disclosure by the Assessor is required including the issue of a full breakdown of contractors-based valuations or elements to valuations where appropriate."

The Institute for Rating, Revenues and Valuation explained: "It is likely that the policy intentions of providing ratepayers with sufficient information to inform whether their valuation is fair and reasonable will not be completely satisfied by this proposal. In particular, ratepayers and their representatives would wish to have sight of the full rental details of the relevant comparisons. Given the data protection and commercial confidentiality issues surrounding leases and rental details, however, it is hard to see how this well intended policy could be more fully effected. The provision of the addresses of rented properties used to inform the valuation will, however, provide both the ratepayers and their professional representatives with sufficient information to start/make their own research."

There was some concern from British Holiday & Home Parks Association, SAUDE, BNP Paribas Real Estate, Whitbread Group PLC and Gerald Eve LLP amongst others that a pre-agreement by one of the proprietor, tenant or occupier would prejudice the others in lodging a proposal on the value.

The Rating Surveyors' Association called for clarity on how the Assessor would treat proposals where there is a difference in the evidence provided by ratepayers, for example between a landlord and tenant or between different ratepayers in a shopping street or industrial subjects within an industrial estate.

There was also concern voiced by J & E Shepherd Chartered Surveyors that there would "be no limitations as to the effective date from which the Assessor can amend valuations under any of these sections. This may lead to Assessors backdating increases to 1st April 2023 at any time the Valuation Roll is in force. We would suggest the current limitations to backdating changes under this section be retained." The Rating Surveyors' Association, the Scottish Business Ratepayers' Group, BNP Paribas Real Estate, and the Royal Institution of Chartered Surveyors echoed these concerns.

The Scottish Assessors Association noted that valuation notices would be several pages long and not easily understandable if the information required in the proposed Schedule was retained. It suggested these should "be simplified as much as possible" and that "[consideration] should be given as to whether reference to appeals is indeed appropriate on Valuation Notices." The Institute for Rating, Revenues and Valuation agreed that the content required in the Schedule was "far too long".

A number of responses including the Royal Institution of Chartered Surveyors, CBRE, the Scottish Chambers of Commerce and GL Hearn flagged up that in the Schedule of The Valuation Roll and Valuation Notice (Scotland) Order 2023, the reference to "in comparison to other similar properties" should be removed, "as it does not capture the various complex ways in which properties may be over-valued."

A small number of respondents, including Colliers, called for Valuation Notices to be in a prescribed form and for the information to be presented consistently across all Assessors.

The Scottish Assessors Association finally suggested that Valuation Notices in connection with the final Valuation Roll should be issued between 15 March and 1 April. The Institute for Rating, Revenues and Valuation also stated: "It would be far better for all parties if Revaluation Notices were issued at, or soon after, valuation rolls are made up i.e. from 15th March."

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

The Scottish Assessors' Association called for the draft valuation roll and draft valuation notices to be published online as this would negate the need for two sets of notices to be issued in a short space of time. It also called for valuation notices to be as simple as possible and contended that lists, where required, would be most efficiently displayed on a website.

The Institute for Rating, Revenue and Valuation also noted: “The need to issue (hard copy) Valuation Notices at the draft publication stage is questioned, particularly in light of the fact that all values and the majority of valuations will be published and made available at the Assessors portal at that point.” It added that where lists are required, the Valuation Notice should provide direction to this list at the Assessors Portal or other appropriate website. Finally, it called for Valuation Notices to be able to be provided to any party who is agreeable in whatever format suits both the recipient and the assessor.

The Scottish Assessors’ Association called for the lists of comparable properties used (“lists”) to be produced only in relation to draft valuation notices, and valuation notices in relation to revaluation only as to produce them for all changes to the valuation roll would place a considerable administrative burden on assessors.

A number of respondents noted that they thought it was unfair that additional information was being proposed only for certain classes of property including British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, J & E Shepherd Chartered Surveyors, Rating Surveyors’ Association, SAUDE, Colliers, Whitbread Group PLC, joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland and Avison Young.

Avison Young stated; “The additional content is unlikely to be so useful as to be decisive in considering the necessity of a proposal, but it is a step in the right direction on transparency”.

CBRE also noted: “[this] is a small step forward from the current position but in the context of the Barclay Review recommendations it is the bare minimum (...) and somewhat meaningless to ratepayers unless more information.”

British Holiday & Home Parks Association, Drax Hydro Limited, Gerald Eve LLP, Scottish Business Ratepayers’ Group, SAUDE, BNP Paribas Real Estate, Whitbread Group PLC, and the joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland were also of the view that: “a list of addresses on its own is meaningless. This list must be supported by corresponding rental analysis.”

J & E Shepherd Chartered Surveyors recommended the production of “the list of comparables the Assessor has used is detailed with the provision of the Assessors analysis and this should be the information relied upon only when discussing a proposal with the proposer.” The Scottish Chambers of Commerce concluded that this increased level of information “is not sufficient for ratepayers to have full transparency over how their Rateable Value is assessed.”

Cushman and Wakefield stated that as a minimum the following should be provided in valuation notices: property address, rent, transaction i.e. rent review, lease renewal, new letting, etc, date of transaction, analysed rent/unit costs, while GL Hearn called for: address, size in metres squared, adjusted rent rate, rent date.

One respondent noted that the practical application of this will be a mere list of surrounding properties akin to a list of comparisons required 21 days before a valuation appeal committee under the existing appeal procedure regulations. It will not contain any information regarding passing rents, rental analysis, or any information regarding the physical circumstances of the property the Assessor has used in forming the rateable value and that this will do very little in enabling a ratepayer to consider whether the rateable value applied is fair and reasonable at the stage of lodging a proposal timeously.

Conversely, the Scottish Assessors' Association noted "that the information suggested in draft regulations is adequate in terms of the provision of information on rented property lists linked to the revaluation of specific lands and heritages".

The Institute of Revenues, Rating and Valuation was of the view that: "The provision of the addresses of rented properties used to inform the valuation will, however, provide both the ratepayers and their professional representatives with sufficient information to start/make their own research."

Cushman & Wakefield called on Assessors to also supply full draft valuations of specialist properties requiring Revenue & Expenditure or Contractors valuations by 30 November prior to a revaluation. The UK Petroleum Industry Association also highlighted: "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."

Other respondents however highlighted that some information used in valuations is commercially sensitive and should not be included with Valuation Notices (e.g. turnover). The Institute for Rating, Revenues and Valuation for instance explained: "Given the data protection and commercial confidentiality issues surrounding leases and rental details, however, it is hard to see how this well intended policy could be more fully effected." Whitbread Group PLC also explained: "Some information used in valuations is commercially sensitive, turnover information as an example should not be included with Valuation Notices." This was echoed in the joint response from The Scottish Licensed Trade Association, The Scottish Beer and Pub Association and UK Hospitality Scotland.

J & E Shepherd Chartered Surveyors, the Scottish Business Ratepayers' Group and BNP Paribas Real Estate amongst others thought that: "For non-bulk class subjects we would consider that a basic proposal should be acceptable when submitting this at the time of the Revaluation or at an MCC event."

All of the respondents who commented on this point agreed that the use of the use classes set out in the Town and Country Planning (Use Classes) (Scotland) Order 1997 was not appropriate for the purposes of specifying which 'bulk class' properties the assessor should provide additional information for in the valuation notice. The Institute for Rating, Revenues and Valuation explained for instance: "[such] classifications have no relevance to the valuation process, a point that has been made repeatedly throughout case law." CBRE stated: "the government should consider listing a schedule of specified descriptions (based on current valuation Roll descriptions)". Gerald Eve explained: "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, in line with how they are proposed to be valued” and J & E Shepherd Chartered Surveyors echoed this.

The regulations also allow for draft valuation notices (in relation to revaluation), and valuation notices to be issued electronically if there is agreement between the parties that it should be so. One respondent noted that if this implied that if this meant there would be one single online account per ratepayer then this could be a “successful system of issuing final valuation notices helping to cut down on delays in receiving notices and a reduction in the costs of printing and postage of the notices”, also noting if this were the case, the recipient of the notice, the ratepayer or the ratepayer’s agent, would require to be notified when a new notice has been uploaded to the online account.

### **General comments**

A number of respondents including Gerald Eve LLP, the Scottish Business Ratepayers Group, SAUDE, UK Petroleum Industry Association, and Whitbread Group PLC called for a redraft of the non-domestic rates legislation. British Holiday & Home Parks Association explained for example: “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. In order for the system to be fair and transparent for all, including lay ratepayers, the legislation should reflect these principles by ceasing from referencing historical pieces.”

## **Annex A – Consultation Responses**

See below a list of organisations that responded to the consultation and where permission was granted to publish the response:

- Avison Young
- BNP Paribas Real Estate
- British Holiday & Home Parks Association
- CBI Scotland
- CBRE
- City of Edinburgh Council
- Colliers
- Cushman & Wakefield
- Drax Hydro Limited
- Federation of Small Businesses
- Gerald Eve LLP
- GL Hearn
- Institute of Revenues, Rating and Valuation
- J & E Shepherd Chartered Surveyors
- Jones Lang La Salle
- Moray Council
- Rating Surveyors' Association
- Royal Institution of Chartered Surveyors
- Scotch Whisky Association
- Scottish Assessors Association
- Scottish Association of University Directors of Estates (SAUDE)
- Scottish Business Rates Group (SBRG)
- Scottish Chambers of Commerce
- Scottish Property Federation
- Scottish Valuation Appeal Committees Forum
- Solar Energy Scotland
- UK Petroleum Industry Association
- Whitbread Group PLC
- WYM Rating
- Joint response from the Scottish Licensed Trade Association, the Scottish Beer and Pub Association and UK Hospitality Scotland

[View submitted responses](#) where consent has been given to publish the response.



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