
STATUTORY INSTRUMENTS

1995 No. 3056

The Valuation Tribunals (Wales) Regulations 1995

PART V

COMMUNITY CHARGE APPEALS

Interpretation

15.—(1) In this Part—

“appeal” means an appeal under section 23 of the 1988 Act;

“notice of appeal” means a notice under regulation 18(1);

“registration officer” means a community charges registration officer appointed for the purposes of section 26 of the 1988 Act;

“tribunal”, unless the context otherwise requires, means the members of a tribunal convened in accordance with this Part for the purposes of disposing of an appeal.

(2) Any reference in the following provisions of this Part—

(a) to a party to an appeal, includes the appellant and any person entitled in pursuance of this Part to be served with a copy of the appellant’s notice of appeal; and

(b) to a numbered section or Schedule is, unless the context otherwise requires, a reference to the section or Schedule so numbered in the 1988 Act.

Jurisdiction

16.—(1) Subject to the provisions of this regulation, an appeal shall be dealt with by the tribunal established for the area of the billing authority or registration officer whose decision is the subject matter of the appeal.

(2) Where—

(a) a person is shown in more than one community charges register as subject to a personal community charge, and

(b) he appeals under section 23(2)(a) or (b) against both or all the entries, and

(c) in pursuance of paragraph (1) the appeals would fall to be dealt with by different tribunals, the appeals shall be dealt with by such one of those tribunals as he may choose.

(3) Where the appellant is a member or employee of the tribunal which, but for this paragraph, would deal with his appeal, it shall not be dealt with by that tribunal but by such other tribunal as may be appointed for the purpose by the Secretary of State.

(4) Where the appellant is a former member or employee of the tribunal by which, in pursuance of any provision of this regulation, his appeal would fall to be dealt with, and the president determines that it shall not be dealt with by the tribunal, it shall be dealt with by such other tribunal as may be appointed for the purpose by the Secretary of State.

(5) Where—

- (a) the appellant is a former member or employee of an old tribunal, and
- (b) in pursuance of paragraph (1) and (2), his appeal would fall to be dealt with by a tribunal whose area includes all or part of the area of that old tribunal, and
- (c) the president determines that the appeal shall not be dealt with by that tribunal,

it shall be dealt with by such other tribunal as may be appointed for the purpose by the Secretary of State.

Time limits

17.—(1) An appeal by a person who is aggrieved as mentioned in section 24(4)(a) or (b) shall be dismissed unless it is initiated in accordance with this Part not later than the expiry of two months beginning with the day on which the authority or, as the case may be, the registration officer notified him in accordance with that subsection that his grievance was believed not to be well founded, or that steps had been taken to deal with the grievance, as the case may be.

(2) Where as mentioned in section 24(4)(c) a person has not been notified as provided in section 24(4)(a) or (b), an appeal by that person shall be dismissed unless it is initiated within four months of the date of service of that aggrieved person's notice under section 24.

(3) Notwithstanding paragraphs (1) and (2), the president may authorise an appeal to be entertained where he is satisfied that the failure of the person aggrieved to initiate the appeal as provided by this regulation has arisen by reason of circumstances beyond that person's control.

Initiating an appeal

18.—(1) An appeal shall be initiated by serving on the clerk of the tribunal having jurisdiction in relation to the appeal a notice in writing (a "notice of appeal") containing the following information—

- (a) the grounds on which the appeal is made;
- (b) the date on which the aggrieved person's notice under section 24 was served on the billing authority or registration officer, as the case may be;
- (c) the date, if any, on which he was notified by the authority or officer as mentioned in section 24(4)(a) or (b).

(2) The clerk shall within two weeks of service of the notice of appeal, notify the appellant that he has received it, and shall serve a copy of it on the billing authority or registration officer whose decision or action is the subject of the appeal, and any other billing authority or registration officer appearing to him to be concerned.

Arrangements for appeals

19. It shall be the duty of the president to secure that arrangements are made for appeals to be determined in accordance with the following provisions of this Part.

Withdrawal

20.—(1) An appeal may be withdrawn by notice in writing given to the clerk before the commencement of a hearing or of consideration of written representations.

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

Disposal by written representations

21.—(1) An appeal may be disposed of on the basis of written representations if the following conditions are satisfied—

- (a) all the parties have given their agreement in writing; and
- (b) the respondent (or, if there is more than one, each of them) has, within 28 days of being notified by the clerk that the appellant has agreed to the appeal being disposed of by written representations, served on the clerk either a notice containing the reasons or further reasons for believing the appellant’s grievance not to be well founded, or a notice stating that he or it does not intend to make further representations.

(2) The clerk shall within 14 days of receipt of a notice under paragraph (1)(b) serve on the appellant a copy of that notice and a statement of the effect of paragraph (3).

(3) After the expiry of 21 days from the issue of the notice to the appellant as mentioned in paragraph (2), the clerk shall submit copies of the notice of appeal, of any respondent’s notice and any response to such a notice made by the appellant within 14 days of its service on him, to a tribunal constituted as mentioned in regulation 25(1).

(4) The tribunal may if it thinks fit require any party to furnish in writing further particulars of the grounds relied on and of any relevant facts or contentions.

Notice of hearing

22.—(1) Where the appeal is to be disposed of on the basis of a hearing, the clerk shall, not less than four weeks before the date in question, serve on the parties notice of the date, time and place appointed for the hearing.

(2) The clerk shall advertise the date, time and place appointed for any hearing by causing a notice giving such information to be conspicuously displayed—

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

(3) The notice required by paragraph (2) shall name a place where a list of the appeals to be heard (other than appeals in relation to an excepted register entry) may be inspected.

(4) In this regulation “excepted register entry” means any entry on the community charges register in relation to which, in pursuance of regulations under paragraph 17 of Schedule 2 to the 1988 Act, the registration officer is under no duty to include the name of the person who is the subject of the entry in the extract which is to be compiled from the information in the register.

(5) Where the hearing of an appeal has been postponed, the clerk shall take such steps as are reasonably practicable in the time available—

- (a) to notify the parties of the postponement; and
- (b) to advertise the postponement.

Disqualification from participating

23.—(1) A person shall be disqualified from participating as a member in the hearing or determination of, or acting as clerk or officer of a tribunal in relation to, an appeal if he is a member of a billing authority—

- (a) whose decision is being appealed against; or
- (b) whose registration officer took the decision which is being appealed against.

(2) A person shall be disqualified from participating in the hearing or determination of, or acting as clerk or officer of a tribunal in relation to an appeal, if the appellant is his spouse or he supports the appellant financially or is liable to do so.

(3) A person shall not otherwise be disqualified from acting in any capacity in relation to an appeal by reason only of the fact that he is a member of an authority which derives revenue directly or indirectly from charges which may be affected by the exercise of his functions.

Representation at the hearing

24. Any party to an appeal which is to be decided at a hearing may appear in person (with assistance from any person if he wishes), by counsel or solicitor, or any other representative (other than a person who is a member or an employee of the tribunal).

Conduct of the hearing

25.—(1) Subject to paragraph (2), a tribunal's function of hearing or determining an appeal shall be discharged by three members of the tribunal who shall include at least one chairman; and a chairman shall preside.

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

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

(4) If the appellant fails to appear at the hearing, the tribunal may dismiss the appeal, and if any other party does not appear the tribunal may hear and determine the appeal in his absence.

(5) The tribunal may require any witness to give evidence by oath or affirmation, and shall have power for that purpose to administer an oath or affirmation in due form.

(6) Parties at the hearing may be heard in such order as the tribunal may determine, and may examine any witness before the tribunal and call witnesses.

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

(8) Subject to any provision of this Part, the tribunal—

- (a) shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings;
- (b) shall, so far as appears to it appropriate, seek to avoid formality in its proceedings; and
- (c) shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before courts of law.

Evidence: general

26.—(1) This regulation applies to information supplied in pursuance of regulations under any of paragraphs 6 to 10 and 13 to 15 of Schedule 2 to the 1988 Act.

(2) Subject to the following provisions of this regulation, information to which this regulation applies shall in any relevant proceedings be admissible as evidence of any fact stated in it; and any document purporting to contain such information shall, unless the contrary is shown, be presumed—

- (a) to have been supplied by the person by whom it purports to have been supplied; and
- (b) to have been supplied by that person in any capacity in which it purports to have been supplied.

(3) Information to which this regulation applies shall not be used in any relevant proceedings by a billing authority or registration officer unless—

- (a) not less than two weeks' notice, specifying the information to be so used and the residence and person to which it relates has previously been given to every other party to the proceedings; and
- (b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted by that authority or officer, at any reasonable time, to inspect and take extracts from the documents or other media in or on which such information is held.

(4) In this regulation “relevant proceedings” means any proceedings on or in consequence of an appeal, and any proceedings on or in consequence of a reference to arbitration under regulation 33.

Evidence of registers

27. An extract from a community charges register may be proved by the production of a copy of the relevant part of it purporting to be certified to be a true copy by the registration officer.

Decisions on appeals

28.—(1) An appeal may be decided by a majority of the members participating; and where (pursuant to regulation 25(2)) it falls to be disposed of by two members and they are unable to agree, it shall be remitted by the clerk to be decided by a tribunal consisting of three different members.

(2) Where an appeal is disposed of on the basis of a hearing, the decision may be reserved or given orally at the end of the hearing.

(3) Subject to paragraph (4), as soon as is reasonably practicable after a decision has been made, it shall—

- (a) in the case of a decision given orally, be confirmed,
- (b) in any other case, be communicated,

by notice in writing to the parties; and the notice shall be accompanied by a statement of the reasons for the decision.

(4) Nothing in paragraph (3) shall require notice to be given to a party if it would be repetitive of any document supplied to him in accordance with regulation 30.

Orders

29.—(1) On or after deciding an appeal the tribunal may in consequence of the decision by order require—

- (a) the alteration of any community charges register;
- (b) the alteration of any estimate made under regulations made under Schedule 2 to the 1988 Act;
- (c) the revocation of any designation of an individual as a responsible individual in pursuance of regulations under Schedule 2 to the 1988 Act;
- (d) the quashing of a penalty imposed under Schedule 3 to the 1988 Act;
- (e) the revocation of a designation under section 5.

(2) An order may require any matter ancillary to its subject-matter to be attended to.

Records of decisions etc

30.—(1) It shall be the duty of the clerk to make arrangements for each decision, each order made under regulation 29 and the effect of each certificate and revocation under regulation 31 to be recorded.

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

(3) A copy, in documentary form, of the relevant entry in the record shall, as soon as reasonably practicable after the entry has been made, be sent to each party to the appeal to which the entry relates.

(4) Each record shall be retained for the period of six years beginning on the day on which an entry was last made in it.

(5) Any person may, at a reasonable time stated by or on behalf of the tribunal concerned and without making payment, inspect records which are required to be made by paragraph (1).

(6) If without reasonable excuse a person having custody of the records intentionally obstructs a person in exercising the right conferred by paragraph (5) he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) The member who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the record; and a copy of the corrected entry shall be sent to the persons to whom a copy of the original entry was sent.

(8) The production in any proceedings in any court of law of a document purporting to be certified by the clerk of a tribunal to be a true copy of a record or decision of that tribunal shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

Review of decisions

31.—(1) Subject to paragraph (2), a tribunal constituted as provided in paragraph (3) shall have power on written application by a party to review or set aside by certificate under the hand of the presiding member any decision on the grounds that—

- (a) the decision was wrongly made as a result of clerical error;
- (b) a party did not appear and can show reasonable cause why he did not do so;
- (c) new evidence, the existence of which could not have been ascertained by reasonably diligent inquiry or could not have been foreseen, has become available since the conclusion of the proceedings to which the decision relates;
- (d) the decision is affected by a decision of, or a decision on appeal from, the High Court or the Lands Tribunal in relation to an appeal in respect of the property which, or, as the case may be, the person who, was the subject of the tribunal's decision;
- (e) the interests of justice otherwise require such a review.

(2) Paragraph (1) does not apply where an appeal against the decision in question has been determined by the High Court.

(3) So far as is reasonably practicable, the tribunal appointed to review a decision shall consist of the same members as constituted the tribunal which took the decision.

(4) If a tribunal sets aside a decision in pursuance of this regulation, it shall revoke any order made in consequence of that decision and shall order a re-hearing or redetermination before either the same or a different tribunal.

(5) The clerk shall as soon as reasonably practicable notify the parties to the appeal in writing of—

- (a) the issue of any certificate under paragraph (1); and
- (b) the revocation of any order under paragraph (4).

(6) Where in relation to a decision in respect of which an application under paragraph (1) is made, an appeal to the High Court remains undetermined on the relevant day, the clerk shall notify the High Court as soon as reasonably practicable after the occurrence of the relevant event.

(7) In paragraph (6)—

“the relevant day” means the day on which, as the case may be,—

- (a) the application under paragraph (1) is made;
- (b) it is determined that the tribunal will not undertake a review under that paragraph; or
- (c) an event referred to in sub-paragraph (a) or (b) of paragraph (5) occurs; and

“the relevant event”, in relation to a relevant day, means the event occurring on that day.

Appeals

32.—(1) An appeal shall lie to the High Court on a question of law arising out of a decision or order which is given or made by a tribunal on an appeal, and may be made by the appellant, the authority or registration officer whose decision he appealed against, or any other person who was party to the appeal.

(2) An appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date of the decision or order that is the subject of the appeal.

(3) The High Court may confirm, vary, set aside, revoke or remit the decision of the tribunal, and may make any order the tribunal could have made.

(4) Billing authorities and registration officers shall act in accordance with any order made by the High Court; and paragraph 9 or 10 (as the case may be) of Schedule 11 to the 1988 Act shall have effect subject to this requirement.

Arbitration

33.—(1) Where at any time before the beginning of a hearing or the consideration by a tribunal of written representations it is so agreed in writing between the persons who, if a question were to be the subject of an appeal to the tribunal, would be the parties to the appeal, the question shall be referred to arbitration.

(2) Section 31 of the Arbitration Act 1950(1) shall have effect for the purposes of the referral of a question in pursuance of this regulation as if such referral were to arbitration under another Act within the meaning of that section.

(3) In any arbitration in pursuance of this regulation the award may include any order which could have been made by a tribunal in relation to the question; and paragraphs 9 and 10 of Schedule 11 to the 1988 Act shall apply to such an order as they apply to orders recorded in pursuance of this Part.