Written submission from Scottish Assessors Association

Land Reform (Scotland) Bill 2015 – Submission by the Scottish Assessors Association

1. The Scottish Assessors Association

The Scottish Assessors Association (SAA) was instituted in 1975 at the time of local government reorganisation and is the successor body to the Association of Lands Valuation Assessors of Scotland (1957) and earlier bodies extending back to The Association of Lands Valuation Assessors (1886). The SAA continued in being after the 1996 reorganisation of Scottish local government and operates in terms of a formal Constitution.

Although a voluntary organisation, all Assessors and their senior staff are members of the Association. One of the principal functions of the Association is to facilitate a consistency of approach in the administration of the valuation, council tax and electoral registration services. The policies and decisions of the Association have a bearing on how individual Assessors carry out their statutory duties, but each Assessor is an independent official, answerable to the Courts in terms of valuation decisions.

The Association works through a series of Committees and associated Working Parties, which meet in advance of quarterly plenary sessions which are attended by representatives from all Assessors’ offices. The SAA also liaises with the Valuation Office Agency (VOA) in England and Wales, the Land and Property Service in Northern Ireland (LPSNI) and the Republic of Ireland Valuation Office (Oifig Luachála) in matters of common interest. While each Jurisdiction will have subtly different practices, the underlying principles of valuation for rating apply across all.

2. Brief summary of the main concepts behind Non-Domestic Rating

a. The Valuation Roll

The Valuation Roll is a public document which contains an entry for all non domestic properties in an Assessor’s area except those specifically excluded by law (agricultural land and buildings being the most extensive exclusion). Each entry in the Roll includes the names of the proprietor, tenant and occupier as appropriate, the Net Annual Value and the Rateable Value set by the Assessor together with the effective date of inclusion or amendment. The Rateable Value is derived from the Net Annual value and, as legislation currently stands and for the majority of properties, Rateable Value and Net Annual Value are the same.

Values are established at Revaluation, when the values of all properties are reviewed from a completely fresh standpoint. The last Revaluation was carried out in 2010 and the next is scheduled for 2017. Revaluation results in the production of a new Valuation Roll which contains revised values for all non domestic properties in the Assessor’s area. Following a Revaluation, new values will generally remain unchanged until the next Revaluation, unless the property is altered or other changes take place. New properties are added to the Roll as they become occupied and entries for demolished buildings are deleted.
The Assessor is required to notify proprietors, tenants and occupiers of all changes which are made to the Valuation Roll by issuing a Valuation Notice.

The Valuation rolls covering Scotland currently contain 223,940 entries with a total Rateable Value of £6.72 Billion.

b. Approach to Valuation

As stated above, the entry in the Valuation Roll includes the Rateable Value which is the estimate of the annual rent, under specified conditions, which the Assessor estimates that a hypothetical tenant would pay to a hypothetical landlord for the right to occupy the "lands and heritages". Along with the valuation assumptions, the hypothetical nature of the assumed tenancy and rent is important and serves to ensure that a fair value is placed on all subjects. While, in practice, there is a close correlation between rents and values, there can be no assumption that the actual rent or nature of occupation will form the foundation of any value.

Although the parties to this transaction are hypothetical, the lands and heritages are real and the valuer's concern is therefore with ascertaining the rental value of the actual property or rights.

The majority of entries in the Valuation Rolls will be valued using a comparative approach to valuation where rents for similar properties will be analysed to arrive at a level of value appropriate for a type of property in a location. Shops, offices, hotels, licensed premises, warehouses and most industrial properties will be valued using this approach.

Where a comparative valuation is not appropriate, a “Revenue” value will be adopted. This will look at receipts and expenditure to seek to arrive at a rent that might be paid out of the balance of receipts over expenditure. This method of valuation is reserved for subjects such as Utilities (including Water, Gas, and Electricity) or Harbour Trusts.

If the comparative or revenue approaches to value are inappropriate, resort can be had the “Contractors Approach”. This is seen as the method of last resort and is a value derived from the cost of building the lands and heritages from scratch. This will include the cost of buildings, any plant & machinery, car parking, yards, landscaping and the value of the land upon which it sits. This capital value is converted to a Rateable Value using a prescribed Statutory Decapitalisation rates which are currently 5% or 3.33% (the lower rate being reserved for Health, Education and MoD).

There are no longer any statutory provisions which dictate any particular approach to valuation for distinct classes of subjects.

3. The proposed change to legislation

a. The LRB proposes that Section 151 of The Local Government etc. (Scotland) Act 1994 is amended as follows to remove the terms that excluded Shooting Rights from the Valuation Rolls in 1995.
b. The LRB also proposes that The Local Government (Scotland) Act 1975 be amended to include the following section:

1A.- Valuation of shootings and deer forests

The assessor for each valuation area must, when making up or altering a valuation roll, enter separately the yearly value of any -

(a) shootings,
(b) deer forests,

in so far as exercisable or, as the case may be, situated in that area.

c. These amendments will have the effect of removing the exclusion from the Valuation Rolls that has been in place since 1st April 1995.

d. The change will come into effect on 1st April 2017, the date of the next Revaluation.

e. The level of value will be that analysed to have been appropriate at 1st April 2015, the “Tone Date”.

f. The physical circumstances will be those prevailing at 1st January 2017.

g. The interpretation of the extent of the “Lands and Heritages” will be for Assessors to decide.

h. Assessors are not convinced of the need for the amendment to introduce a new section 1A to the Local Government (Scotland) Act 1975. Without the exclusion currently in the 1994 Act, Shootings and Deer Forests would fall to be revalued under the terms of Sect 1 of the 1975 Act with any subsequent changes to value being governed by Sections 2 and 3 of the 1975 Act.
i. Further, the phrase “yearly value” is at odds with the existing legislation where “Annual Value” is synonymous with Net Annual Value/Rateable Value.

j. Assessors feel that this amendment may result in unhelpful litigation in order to interpret the legislation.

4. Mechanism for creating and entering values into Valuation Rolls

a. Following the passing of the Bill into law, Assessors will have the authority to seek returns of relevant information from Proprietors and any, Tenants or Occupiers of the relevant subjects.

b. That data will then be analysed to establish what the hypothetical tenant of such subjects could reasonably be expected to pay by way of rent on a year to year basis with the proviso that there is an expectation of continued occupation beyond one year. The hypothetical rent will also reflect the statutory assumptions:
   i. Tenant responsible for all repairs and insurance
   ii. Subjects are in fit state to command the rent

c. The records previously held by Assessors may no longer exist and those that have been retained are likely to be considerably (20 years or more) out of date. Survey work will therefore be required to establish the nature, geographical extent and topographical character of the Shooting Rights and Deer Forests. Details will also be required in respect of any ancillary property or buildings such as Deer Larders, Gun Lockers, etc.

d. Consideration will also be given to the current legislative landscape and this will, in many respects have changed since 1995. Any impact these enactments upon the value of Sporting Rights will be required to be taken into account.

e. It is anticipated/hoped that representatives of the Assessors and the ratepayers will be able to meet to discuss proposed values prior to publication of the Revaluation Roll. In an ideal world, agreement would be reached prior to publication.

f. Assessors will also consult other bodies such as Scottish Natural Heritage and the Forestry Commission.

g. This will be an added burden on Assessors' staff alongside a considerable amount of work associated with delivering the Revaluation of all Non-Domestic properties by mid-2016 in order that draft values can be published in the final third of that year.
h. Detailed valuation of the subjects will not be possible until they have been surveyed and relevant information has been collected and analysed. Consideration will have to be given to rents passing, income derived from the shooting activities, the geographical extent of the shootings or deer forests, regularity of use etc.

5. Appeals

a. Should pre-agreement of values not be possible, the interested parties will have a right of appeal against the published entry in the Valuation Roll. Under current regulations, there is a window of 6 months from the date of Revaluation or the issue of the Valuation Notice (whichever is the later). Normally, appeals will be resolved by negotiation but failure to reach such a resolution will result in the hearing of appeals by local Valuation Appeal Panels or, in certain circumstances, the Lands Tribunal for Scotland. There is a further right of appeal, on points of law only, to the Lands Valuation Appeal Court (part of the Court of Session).