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UTS/AP/25/0095

UTS/AP/25/0096

DECISION OF

Sheriff O'Carroll

**ON AN APPEAL
IN THE CASE OF**

Assessor for Grampian Valuation Joint Board

Appellant

- and -

Deans of Huntly Ltd; Vestey Foods Ltd T/A Donald Russell Ltd; Ashtead Technology Ltd;
Masstock Arable (UK) Ltd; William J Will Transport and James Rizza & Sons
per WYM Rating

Respondent

FTS Case References:

FTS/LTC/NR/24/01190; FTS/LTC/NR/24/01191; FTS/LTC/NR/24/01202; FTS/LTC/NR/24/01205;
FTS/LTC/NR/24/01203; FTS/LTC/NR/24/01207; FTS/LTC/NR/24/01193



29 October 2025

DECISION

The appeals are allowed. The decisions of the First-tier Tribunal for Scotland dated 30 March 2025 are quashed. The appeals dated 6 December 2024 by each of the respondents against the decision notices of the appellant issued on 6 November 2024 are refused.

REASONS

- [1] *Background.* These are appeals against decisions of the First-tier Tribunal for Scotland (Local Taxation Chamber) (“the tribunal”) dated 30 March 2025 (“the decision”) that appeals made to that tribunal concerning rating matters were timeous. All appeals raise the same issue and were conjoined at an earlier stage. The appellant asks this Upper Tribunal to allow the appeals and thereafter dismiss the respondents’ appeals to the tribunal. The respondents ask this Upper Tribunal to adhere to the decisions of the tribunal and remit to the tribunal to proceed as accords.
- [2] The essential facts are as follows. The respondents each submitted a proposal to the Appellant seeking alteration of the Valuation Roll for their property. On 6 November 2024, the Appellant issued seven decision notices by email, one to each of the respondents, refusing the proposals. Those emails were received at various times between 17.41 and 19.37 on the same day. On 6 December 2025, seven emails, one from each respondents, submitting appeals against the decision notices were sent to the tribunal administration at various times between 15.51 and 16.55. As will be seen, appeals must be made within 28 days beginning with the day on which the notice is presumed to have been received. It is presumed, irrebuttably, by the legislation that a notice of decision is received 48 hours after it was sent. So, if the days of appeal commenced on the day of 8 November 2024 (including



the whole of that day), the days of appeal expired at midnight on 5 December 2024 and the appeals were made one day late. If however, as the tribunal held and the respondents argue, the days of appeal ran from the moment commencing 48 hours after the decision notices were sent, and expired after exactly 28 periods of 24 hours, to the minute, then each of the appeals was just in time.

- [3] This appeal therefore turns on the interpretation of the statutory provisions concerning time limits which is now examined.

RELEVANT LEGISLATION

- [4] Section 3ZB of the Local Government Scotland Act 1975 (“1975 Act”) provides for appeals to the Tribunal under the Valuation Acts. That section provides, so far as is relevant:

“(3) An appeal under subsection (1)—

(a) must be made within the period set out in regulations under subsection (7)(a) (and the [Tribunal] may not allow it to be made after the end of that period) ...”

- [5] The relevant Regulations are the Valuation (Proposals Procedure)(Scotland) Regulations 2022, SSI 2022/369 (“the 2022 Regulations). Regulation 18 specifies the periods mentioned in section 3ZB(3) as follows:

“18.— Last date for making an appeal in relation to a proposal

(1) The periods within which an appeal under section 3ZB(1) of the 1975

Act is to be made are as set out in paragraphs (2) to (4).

(2) Where a notice of decision has been issued in respect of a proposal, an appeal may be made by sending a notice of appeal to the First-tier Tribunal within the period of 28 days beginning with the day on which the notice of the decision is presumed to have been received.

(3) Where a proposal determination date has been issued in relation to a proposal, but no notice of a decision is issued on or before the proposal determination date, an appeal may be made by sending a notice of appeal to the First-tier Tribunal within the period of 28 days beginning with the proposal determination date.



(4) Where notice of a proposal determination date has not been issued 70 days before the last date for the assessor to issue notice of a decision on the proposal, according to regulation 17ZC, an appeal may be made by sending a notice of appeal to the First-tier Tribunal no later than 42 days before that last date.

(5) For the purposes of paragraph (2), a notice of decision is to be presumed to have been received 48 hours after it was sent.”

Submissions

[6] This Tribunal had the benefit of detailed written submissions from both parties. Therefore, it suffices for present purposes to summarise briefly the arguments of the parties. The parties agreed, correctly, that the tribunal did not have the power to extend time. The parties also agreed, correctly, that the words “beginning with” in reg.18(2) require the first unit of time (be that a common law day or a period of 24 hours) to be included in the computation of the 28-day period.

[7] The appellant argues that the tribunal erred by holding that “day” in regulation 18(2) of the 2022 Regulations was not a common law day (running from midnight to midnight) and by taking account of fractions of a day into account. The tribunal wrongly inferred from the reference to the 48-hour period mentioned in regulation 18(5) that the word “day” must be similarly construed as referring to a period of 24 hours starting from the time, rather than day, of presumed receipt. Time limits measured in periods of days or more are calculated *civilis computatio*. The regulations provide for two periods of time: one is calculated from moment to moment: the other *de die in diem*.

[8] The respondents argue that the tribunal correctly found that the appeals were timeously made. In context, the use of the word “day” in regulation 18(2) must refer to a period of 24 hours and not a common law day. That is because of the interplay with regulation 18(5) which is a time limit measured in hours. So, the precise time at which a notice of decision is presumed to have been received is the starting point for the calculation of the appeal period in regulation 18(2). The matter is one of statutory interpretation which requires



examination of the whole of 2022 Regulations. They must be construed as a whole with similar meanings to be given to similar terms used across the Regulations. Contrariwise, where different terms are used in the Regulations, such as “date” that must mean something different from “day”. Since a “date” is indivisible, a “day” by contrast must be divisible, be a period of 24 hours and fractions taken into account. If the whole of the day on which a decision letter is presumed to have been received is taken up in the computation of the days of appeal, the 48-hour period loses its meaning. The respondents lose valuable time in preparation of the appeal as the effect is to artificially shorten the 28-day period of appeal which is unfair. That is especially important where, as here, the tribunal has no power to extend time.

Analysis and decision

- [9] This is a straightforward exercise of interpretation of the words used in the legislation, applying that to the facts. To calculate the expiry of the time limit for appeal, one starts with when a notice of decision is sent: regulation 18(2). (Different provisions apply where no notice of a decision is sent: regulation 18(3), (4)). The giving of the period in hours rather than days means that the time of sending starts the clock ticking. If the notice is sent by email, as in these appeals, establishing the time of sending will usually be straightforward. If the notice is sent by post, establishing the time of sending may rely on the internal records of the Appellant. Similarly, if sending is personal. But whatever method is used, and however the time of sending is proved, the notice is irrebuttably presumed to have been received 48 hours later. That is, at exactly the same hour of the corresponding day. That is regardless of whether the notice was received before that presumed time (as in all these appeals) or is in fact received much later in time. The formulation of “48 hours” is a common presumption (for example see regulations 6(7), 7(6), 10(3) of the 2022 Regulations and s.26(5) of the Interpretation and Legislative Reform (Scotland) Act 2010). It is used



consistently within the 2022 Regulations, including where documents require to be intimated to the Assessor

[10] The only purpose of regulation 18(5) is to provide a clear, definite starting point for commencement of the days of appeal provided for in regulation 18(2), where a notice of decision is actually sent. Both parties are agreed, correctly in my view, that the use by the legislature of a period of time measured in hours rather than days in regulation 18(5) means that the period is to be measured *naturalis computatio* (from moment to moment) rather than *civilis computatio* (from day to day): see Stair Memorial Encyclopaedia, paragraph 820.

[11] However, the period within which an appeal must be made is expressed and calculated differently in regulation 18(2). The period starts with a “day”, not with an “hour” or a “time”. “Day” is not defined in the regulations or the 1975 Act. That day, starting the days of appeal, is the day on which the notice of decision is presumed irrebuttably to have been received. And the whole of that day is included because the appeal must be made “within” the period of 28 days, so the first day of appeal is that day on which the notice of decision is presumed to have been received.

[12] That interpretation of the plain words of the regulation is consistent with the authorities. The Stair Memorial Encyclopaedia states that a “day” is a period of 24 hours starting at midnight: a natural day (paragraph 815). The normal method of calculation of time is *de die in diem* (*civilis computatio*) rather than *de momento in momentum* (*naturalis computatio*): so that fractions of a day are not reckoned and a “day” starts and ends at midnight (paragraphs 819, 820, 822). By contrast *naturalis computatio* is employed only in exceptional circumstances. The law does not take account of fractions of a day unless some special reason or necessity requires it; where a time limit is expressed as starting or beginning with a particular day then the time limit starts to run on that day (not the hour or minute or time). See *Trow v Ind Coope (West Midlands) Ltd* [1967] 2 QB 899; Macphail Sheriff Court Practice (4th ed), paragraph 27.18.

[13] The respondents in this appeal accept that computation *civilis computatio* is the normal method of calculation, but argue that there are exceptional or special circumstances



justifying the alternative method of calculating time by reckoning 28 successive periods of 24 hours starting with the minute of presumed receipt of the notice of proposal. It is argued that the meaning of “day” in regulation 18(2) must be read consistently with the use of “hours” in regulation 18(5). That in my view is incorrect. There are two different periods expressed deliberately in two different ways in different parts of regulation 18 for different purposes. There is no necessity or good reason to infer that day is to be understood as a period of 24 hours rather than a natural day. That is not what the regulation says. It is perfectly possible, as in this example, to have two time limits expressed by the legislation for two different but connected purposes expressed in different ways. It is not necessary for any sound reason to apply the strained interpretation argued for by the respondent to give the regulation meaning.

[14] The respondents referred to the unreported decision of a different FTS dated 19 Nov 2024 in the case of *Poundstretcher Ltd v Assessor for Fife council* and the authorities referred to in it in order to illustrate their argument. In that case, the FTS required to determine whether an appeal was lodged timeously, considered the same regulation 18, and held that the appeal was out of time. I did not find that decision or the authorities considered by that FTS of any assistance in this case. That was because the two questions before the FTS (when the days of appeal started to run and whether the FTS had the power to extend time) are not in issue in this appeal; all are in agreement on those two questions. The argument mounted in this appeal by the respondent was not considered by that FTS. The case law considered by that FTS sheds no light on the issues in this appeal.

[15] The respondents invited this Tribunal to construe the terms of regulation 18 in the context of other parts of the 2022 Regulations concerned with timescales (such as regulations 16(2), 17A(1)(b)) where the word “date” is used rather than “day” in the context of other types of appeals) and conclude that because “date” is an indivisible period of time, “day” must have a different meaning and be divisible. I reject that argument. Those regulations (like regulation 18(3),(4)) deal with a very different situation from that envisaged by 18(2), (5). In any event, those regulations also employ the use of “day”, “days”



as well as “date”. In my view, nothing turns on such a distinction and there is no sensible or necessary implication that Parliament intended “day” in regulation 18(2) to have any meaning other than the usual common law meaning.

[16] The respondents also argue that consistency and fairness demand the interpretation urged in this Tribunal. That is because an interpretation which holds that the whole of the day on which the notice is presumed to have been received is included means that an appellant (who cannot mount an appeal until the day of presumed receipt of the notice of decision), is thereby deprived of a period of time, a fraction of a day, of the 28 days of appeal: the period is thus foreshortened. I reject that argument. The plain words of the regulation provide that the day on which the notice is presumed to have been received is the first day of the days of appeal. That plain reading cannot be disapplied by some notion of unfairness caused by a reduction of time of a fraction of a day. If that is what the regulation says, so be it. In any event, even were such a notion relevant, the respondents in this case (and all other cases where actual service is made instantaneously by email) in fact received the notice of decision of the Appellant over a day in advance of the presumed receipt of the notice of decision. It is further argued that the lack of any power for the tribunal to extend time argues for a more liberal construction where an appeal is just out of time. That argument has no merit. The task of the Tribunal is to construe the words of the legislature, give them meaning; not to read in an artificial construction to avoid what Parliament has decided. Counsel for the respondents candidly admitted that he was unable to discover any other reported decision, in this or any analogous field, in which the construction contended for was upheld. That I find unsurprising. The respondents’ argument, on the basis of *Trow* that there are special reasons or a necessity to adopt the construction contended for fails. There are in my view no such special reasons or necessity for doing other than giving the legislation its plain meaning.

[17] It follows that the respondents’ appeals to the FTS were made one day late, that the appeals to this Tribunal are allowed, the decisions of the tribunal below are reversed and the respondents’ appeals to the FTS are dismissed.



Member of the Upper Tribunal for Scotland

*A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within **30 days** of the date on which this decision was sent to him or her. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.*