



LANDS VALUATION APPEAL COURT

[2026] CSIH 3
XA26/205

Lord Malcolm
Lord Doherty
Lord Ericht

OPINION OF LORD MALCOLM

in the Appeal

by

WAHEEDA AKRAM

Appellant

against

ASSESSOR FOR LOTHIAN VALUATION JOINT BOARD

Respondent

Appellant: Ghosh KC, Shaw; TLT LLP
Respondent: J Murphy; Gilson Gray LLP

14 January 2026

[1] I have had the advantage of reading a draft of the opinion delivered by Lord Doherty. I agree with it and with his proposal that the appeal be refused. There is nothing I wish to add.



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Introduction

[2] The appeal subjects are the site of an external automated teller machine (ATM). At the 2017 revaluation they were entered in the valuation roll for Lothian with effect from 1 April 2017. The property address in the roll was 72A Raeburn Place, Edinburgh. The appellant was entered as the proprietor. The net annual value (NAV) was £11,375. There was no appeal against that revaluation entry. The ATM itself is not rateable because ATMs are plant and machinery which do not fall within any of the classes of plant and machinery which are prescribed by the Valuation for Rating (Plant and Machinery)(Scotland)

Regulations 2000 (SSI 2000/58) for the purposes of the definition of “lands and heritages” in section 42 of the Lands Valuation (Scotland) Act 1854.

[3] The appeal subjects were formed in 2003. Before that, the area which became the site was part of the shop premises at 72 Raeburn Place. Raeburn Place is the main shopping street in Stockbridge, which is a residential area immediately to the north of the New Town, not far from the city centre. At the 2017 revaluation 72 Raeburn Place was described in the roll as “Post Office”. It was valued on the comparative principle as a shop with an NAV of £14,900. The proprietor entered in the roll was Sherifam Akram and the appellant was entered as tenant. In 2018 the NAV was amended to £13,400 with effect from 1 April 2017.

[4] As a result of the Covid 19 pandemic, the revaluation scheduled for 2022 was postponed until 2023. On 12 February 2023, about 6 weeks before the 2023 revaluation roll became effective on 1 April 2023, the appellant appealed against the entry in the 2017 roll for 72A on the ground that there had been a material change of circumstances affecting the value of the subjects since the entry was made (Local Government (Scotland) Act 1975, section 3(4)). (Section 3(4) was repealed on 1 April 2023. Since that date section 3ZA makes provision for the proposal procedure and section 3ZB confers rights of appeal). The appeal maintained that the entry should be deleted, and that the site should be included within the shop entry, with the NAV for that entry being increased from £13,400 to £14,100 with effect from 1 April 2017, failing which with effect from 22 May 2020.

[5] The assessor did not accept that there had been a material change of circumstances. Due in part to the Covid 19 pandemic, the appellant’s appeal was not heard before the final date that valuation appeal committees required to determine appeals. It was transferred to the First-tier Tribunal (Local Taxation Chamber) (FTT).

Relevant legislation

[6] Section 2 of the Local Government (Scotland) Act 1975 provides:

“2.— Alterations to valuation roll which is in force.

(1) Subject to subsection (2) below, the assessor for any valuation area shall, as respects that area, at any time while the valuation roll is in force, alter the roll—

...

d) to give effect to any alteration in the value of any lands and heritages ... which is due to a material change of circumstances;

...

(1A) ... [T]he assessor for any valuation area shall, as respects that area, alter the roll to give effect to any decision following an appeal or complaint under the Valuation Acts to a court, tribunal or valuation appeal committee and such alteration shall have effect from such date as shall be determined by the court, tribunal or committee.

(2) Any alteration to the roll—

...

(c) made under subsection (1)(d) above, shall—

...

(ii) have effect only as from the date of the event by reason of which the alteration is made or as from the beginning of the year in which the alteration is made, whichever is the later:

Provided that if the proprietor, tenant or occupier of the lands and heritages has intimated in writing to the assessor the event by reason of which a reduction in value of the lands and heritages is made, the alteration in the roll shall have effect as from the date of the event or as from the beginning of the year in which intimation of the event is made, whichever is the later;

...

and the date on which any alteration in the roll made under this section comes into effect shall be stated in the roll. ...”

[7] As at 12 February 2023 sections 3(4) and 37(1) of the 1975 Act provided:

“3.— Provisions supplementary to sections 1 and 2.

...

- (4) Without prejudice to subsection (2) above, the proprietor, tenant or occupier of lands and heritages ... which are included in the valuation roll may appeal against the relevant entry but only on the ground that there has been a material change of circumstances since the entry was made ...”

“37.— General interpretation.

- (1) In this Act, unless the context otherwise requires—

...

‘material change of circumstances’ means in relation to any lands and heritages a change of circumstances affecting their value —

- (a) and, without prejudice to the foregoing generality, includes any alteration in such lands and heritages any relevant decision of the Lands Valuation Appeal Court or a valuation appeal committee the members of which are drawn from the valuation appeal panel serving the valuation area in which the land and heritages are situated or the Lands Tribunal for Scotland under section 1(3A) of the Lands Tribunal Act 1949, and any decision of that Court, committee or Tribunal which alters the net annual value or rateable value of any comparable lands and heritages ...”

The appeal to the FTT

[8] The principal issue in the appeal was whether the decision of the United Kingdom Supreme Court (UKSC) in *Cardtronics UK Ltd v Sykes* [2020] UKSC 21, [2020] 1 WLR 2184 on 22 May 2020 constituted a material change of circumstances affecting the value of 72A.

[9] The appeal was heard by the FTT (Temporary Chamber President Jacqui Taylor and Donald Wooley) on 23 December 2024. Two witnesses were adduced for the appellant, the appellant and Mr Mohammed Sajid (a non-executive director of the National Federation of Sub-Postmasters). Mr Lewis Thomson ARICS was adduced by the assessor.

[10] At the 2017 revaluation 72A was valued on the comparative principle in accordance with the recommendations of Scottish Assessors Association Commercial Properties Committee Practice Note 10 “Valuation of Remote ATM Sites”, comparison being with other

remote ATM sites. A remote ATM site was defined for the purposes of the Practice Note as the location of an ATM at a place or premises where the ATM operator is considered to be in separate rateable occupation. The comparative principle valuation method used in the Practice Note involved an analysis of the available rental information for sites, with sites then being valued according to the number of transactions at the ATM. The appeal subjects were in transaction band H (75,000-99,999 transactions) for which the appropriate NAV was £11,375.

[11] On the appellant's behalf it was submitted that the UKSC decision in *Cardtronics* was a "material change of circumstances" within the meaning of the definition of that term in section 37(1), either because it was a "relevant decision" in terms of paragraph (a); or, if not a relevant decision, because it was nonetheless "a change of circumstances affecting" the value of the lands and heritages. The definition of "material change of circumstances" was a broad and inclusive one. *Cardtronics* gave clear guidance as to the correct method of valuing the sites of external ATMs. It was a decision of principle which affected all such sites. It decided that retailers rather than banks were in paramount occupation of sites where ATMs could be said to serve the business purposes of the retailers. That was the position with the appeal subjects. *Assessor for Central Scotland Joint Valuation Board v Bank of Ireland* [2010] CSIH 91, 2011 SC 265 should be distinguished. A broad view should be taken of the meaning of "relevant decision" (*Armour*, Valuation for Rating, paragraph 3.25; *Symington v Assessor for Strathclyde Region* 1983 SLT 660; *Assessor for Lanarkshire v Bonnybridge Silica and Fireclay Company* 1963 SC 207). *Cardtronics* was a relevant decision because, for the reasons already stated, it was a decision which held that such sites were in the paramount occupation of the retailer if the ATM served their business purposes. In terms of section 2(1A)(b) of the 1975 Act it was for the FTT to determine the date from which the

alteration to the roll should have effect. The FTT should direct that the effective date of the alteration was 1 April 2017, the date the roll came into effect; failing which, since the date of the event by reason of which the alteration was made was 20 May 2020, the effective date ought to be the beginning of that financial year, 1 April 2020 (section 2(2)(c)).

[12] On the assessor's behalf it was submitted that *Cardtronics* was not a "relevant decision" within the meaning of paragraph (a) of the definition because the UKSC is not a court or tribunal there referred to. The *expressio unius est exclusio alterius* canon of construction applied (*Craies on Legislation* (13th ed), paragraph 20-034). Nor was there any other basis for saying that *Cardtronics* was a material change of circumstances affecting the value of the appeal subjects. The court had recognised on a number of occasions that the definition of material change of circumstances ought not to be given an unrestricted meaning and that a degree of purposive construction was required (see eg *Schuh Ltd v Assessor for Glasgow* [2013] CSIH 93, 2014 SLT 184). *Cardtronics* was not a decision of principle which affected the value of the appeal subjects. It was a decision which applied established principles to the facts found (*Assessor for Lanarkshire v Bonnybridge Silica and Fireclay Company*). The facts found in *Cardtronics* in relation to occupation of the external ATMs differed from the facts here and differed from the facts found in *Assessor for Central Joint Valuation Board v Bank of Ireland*. In *Cardtronics* the UKSC had not disapproved *Bank of Ireland*. That decision was in point and should be followed here. On the facts found Bank of Ireland (and latterly Post Office Ltd) were the rateable occupiers of the subjects. If, contrary to the submissions for the assessor, *Cardtronics* was a material change of circumstances affecting the value of the appeal subjects, the effective date of the alteration ought to be no earlier than 1 April 2022, because that was the beginning of the year in which the appellant

first intimated in writing that an event amounting to a material change had occurred (see the proviso to section 2(2)(c)).

[13] The FTT proceeded on the basis that the ATM at the appeal subjects was accessible for use by the public only from the street. It projected through and was framed by a red opaque plate glass window which formed part of the shop frontage. There was signage surrounding it indicating that its services were free to patrons. It was the only external ATM in Stockbridge. The appellant provided basic maintenance of the ATM (such as loading it and clearing blockages) for the Bank and then for Post Office Limited, but the site and the ATM were not controlled by the retailer. So far as the shop was concerned, the site was dead space. Under the appellant's agreement with the Bank of Ireland the appellant was paid £300 per month plus a commission payment for each ATM transaction. The subsequent agreement with Post Office Ltd provided for a commission payment for each ATM transaction. The evidence did not disclose what the respective commission payments were or what the total annual payments made under the agreements were. The FTT found that between 1 April 2017 and January 2023 the rateable occupier of the site was Bank of Ireland, at which latter time the rateable occupier became Post Office Ltd and the Bank of Ireland's ATM was replaced by Post Office Ltd's ATM. They also found that since the creation of the site it and the shop had always been in separate occupation. They held that *Cardtronics* was not a "relevant decision" of a court or tribunal referred to in paragraph (a) of the definition in section 37(1), and that it was not otherwise a material change of circumstances. It was not a decision setting out any new principle. It applied established principles to the facts found. It was not a change of circumstances affecting the value of the appeal subjects.

The appeal to this court

Submissions for the appellant

[14] The principal submission was that the opening general words of the definition in section 37(1) should be interpreted broadly. What followed in paragraph (a) was “without prejudice to the foregoing generality”. The opening words were wide enough to cover a decision of the UKSC on a point of valuation law or principle. Even though such decisions might not bind the Lands Valuation Appeal Court or the FTT, they were highly persuasive and they ought usually to be followed. The UKSC decision in *Cardtronics* was a material change of circumstances which had affected the value of the appeal subjects. The decision and reasoning in relation to external ATMs were different from the decision and reasoning in *Bank of Ireland*. The UKSC had not disagreed with the outcome in that case, but it had not approved the reasoning. *Cardtronics* had changed the legal landscape in relation to identifying the rateable occupier of external ATMs where the host retailer and the ATM operator were different persons. It made clear that where the retailer derived economic benefit from the ATM, and it could therefore be said to form part of their overall retail business, the retailer would be likely to be the paramount occupier. That valuation methodology ought to have been followed here, and it ought to have led to the conclusion that the appellant was the rateable occupier. The law and valuation principles applied ought not to differ between Scotland and England (cf *Woolway (Valuation Officer) v Mazars llp* [2015] UKSC 53, [2015] AC 1862).

[15] In the event that the court concluded that the opening words of the definition are not wide enough to encompass the guidance which the UKSC gave in *Cardtronics*, it was submitted (somewhat faintly) that the non-inclusion in paragraph (a) of a decision of the UKSC which was directly relevant would be absurd. Appropriate words should be read

into paragraph (a) to avoid such absurdity (cf. *Inco Europe Ltd v First Choice Distribution* [2000] 1 WLR 586). The result would be that *Cardtronics* would be a “relevant decision” in terms of paragraph (a) and that due effect should be given to it.

[16] Finally, it was submitted that the FTT’s reasons for holding that the decision in *Cardtronics* had not been a material change of circumstances were inadequate. The court should hold that it had been a material change.

[17] The appeal should be allowed, the separate entry for the ATM site should be deleted, and the value of the shop should be increased to £14,100. The court ought to use its power under section 2(1A)(b) of the 1975 Act to order that the effective date of the change was 1 April 2017 (the date the revaluation roll came into force), failing which that it was 20 May 2020, the date of the UKSC decision. If the governing provision was section 2(2)(c) rather than section 2(1A), the effective date ought to be 1 April 2022, the beginning of the year in which intimation of the event was first given by the appellant to the assessor.

Submissions for the assessor

[18] The FTT had been correct to refuse the appeal.

[19] The decisions of the court in *Assessor for Glasgow v Schuh Ltd* [2012] CSIH 40, 2012 SLT 903 and *Schuh Ltd v Assessor for Glasgow* [2013] CSIH 93, 2014 SLT 184 indicated that the definition of “material change of circumstances” in section 37(1) ought not to be construed expansively, but should be given a purposive construction consistent with the policy of the 1975 Act that generally, with only strictly limited exceptions, the valuation roll ought to be frozen between revaluations.

[20] The UKSC decision in *Cardtronics* was not a material change of circumstances affecting the value of the appeal subjects. It was not a material change of circumstances

affecting value in terms of the introductory words of the section 37(1) definition. The UKSC did not have jurisdiction to decide questions of value in Scotland. No decision by it could affect value, and *Cardtronics* had had no impact on the appeal subjects' value. Further, as the second part of the definition specified the courts and tribunals which were capable of issuing "relevant decisions", the introductory general words should not be construed as being capable of including decisions by any other courts or tribunals. Since the UKSC is not one of the courts or tribunals listed, a decision by it could not be a "relevant decision". The *expressio unius exclusio alterius* canon of construction applied (*Craies on Legislation* (13th ed), paragraphs 20-034- 20-038). That natural and ordinary reading did not give rise to absurdity. It was perfectly understandable that the legislative intention should be to restrict that part of the provision to decisions by courts and tribunals with jurisdiction to determine net annual values in Scotland. There was no basis for reading words into it.

[21] In any case, even if a decision of the UKSC was capable of being a material change of circumstances affecting value in terms of the introductory words of the section 37(1) definition, or of being a "relevant decision", it would not be such a decision unless it decided some important principle of valuation law or practice. A decision applying established law and valuation principles to the particular facts of the case in question could not be a material change of circumstances (*Assessor for Lanarkshire v Bonnybridge Silica & Fireclays Co* 1963 SC 207, Lord Sorn at pp 216-217, Lord Kilbrandon at p 219, Lord Hunter at pp 220-221). The decision in *Cardtronics* was such a case. It applied established law and principles relating to rateable occupation to the particular facts found by the Upper Tribunal. The *Bank of Ireland* case had applied the same established law and principles to the facts found in that case. *Cardtronics* did not disapprove the law and principles which the

court applied in *Bank of Ireland*. On the contrary, it treated it as a case which had been correctly decided on the facts found.

[22] It was incorrect to assert that every aspect of the law of valuation for rating in Scotland and in England were the same. *Woolway v Mazars* was not authority for such a broad, and untenable, proposition. The issue in *Woolway* had concerned the principles for identifying the unit of valuation. The UKSC had been referred to Scottish cases which vouched three broad principles. It found the Scottish cases persuasive and it followed them.

[23] The FTT gave adequate and intelligible reasons for their decision. The appellant had not discharged the onus of proving that *Cardtronics* was a material change of circumstances affecting the value of the appeal subjects. The facts found were essentially the same as in *Bank of Ireland*. The FTT reached a decision they were entitled to reach.

[24] If, contrary to the submissions for the assessor, the court held that *Cardtronics* was a material change of circumstances affecting the value of the appeal subjects, the effective date of the material change would be 1 April 2022, the beginning of the year in which written intimation of the appeal was first given (section 2(2)(c) of the 1975 Act). There was no proper basis for the court using the power in section 2(1A) to direct that the change be effective from any earlier date.

Decision and reasons

[25] Under the Valuation Acts the assessor for each valuation area requires to make up a valuation roll for each year of revaluation, which roll remains in force until superseded by a new valuation roll. In the intermediate period (which was formerly 5 years, but is now usually 3 years), the assessor may require to alter the roll in certain limited circumstances. One such circumstance is that there has been an alteration in the value of lands and

heritages which is due to a material change of circumstances (Local Government (Scotland) Act 1975, section 2(1)(d)). It is clear from the decisions of this court in *Assessor for Glasgow v Schuh Ltd* [2012] CSIH 40, 2012 SLT 903 and *Schuh Ltd v Assessor for Glasgow* [2013] CSIH 93, 2014 SLT 184 that the definition of “material change of circumstances” in section 37(1) ought not to be construed expansively, but should be given a purposive construction consistent with the policy of the Valuation Acts that generally, with only strictly limited exceptions, the valuation roll ought to be frozen between revaluations. The definition of “material change of circumstances” requires to be construed as a whole, keeping sight of that policy.

[26] It is convenient to deal at this point with the submission that valuation for rating law and principles ought not to differ between Scotland and England. As a legal proposition, the submission is not well founded. The law of valuation for rating in Scotland and the other UK jurisdictions is governed by different legislation, and the apex court in Scotland on questions of value is the Lands Valuation Appeal Court. Moreover, on no view is *Woolway v Mazars* even a persuasive authority for the suggested proposition, let alone a binding one. The issue in *Woolway* concerned the principles for identifying the unit of valuation. The court had been referred to Scottish cases which vouched three broad principles (Lord Sumption at paragraph 12). Lord Sumption observed (paragraph 13):

“One would not expect the law to be any different when the identical questions arise for decision in England.”

Lord Gill added (at paragraph 34):

“Although the law of valuation for rating is governed in Scotland by different legislation, the essential point is identical in both jurisdictions. It is to identify the unit of valuation. In my view, there is no reason why the two jurisdictions should diverge on the principles of the matter. On the contrary, it is desirable that they should coincide.”

At paragraph 45 Lord Neuberger noted that the issue in the appeal was whether the second and sixth floors of an office building were a single valuation unit. He continued:

“46 The statutory definition of “hereditament” in section 115(1) of the General Rate Act 1967 states that it is such “a unit of . . . property which is, or would fall to be, shown as a separate item in the valuation list.” While, at least to some extent, that is a circular definition, it does contain the expression “unit of . . . property”, which carries with it the notion of a single piece of property, what in Scots law is called *unum quid*. And, in that connection, I entirely agree that there should be no difference of approach between Scottish and English law on the issue raised on this appeal.”

The question was whether the approach in Scottish cases dealing with the identification of the unit of valuation should be followed in an English appeal. The UKSC found the decisions and reasoning in the Scottish cases persuasive and followed them.

[27] In my opinion neither of the construction arguments advanced on the appellant’s behalf are correct.

[28] I deal first with the submission that the opening words of the definition of “material change of circumstances” are sufficiently wide to include the decision of the UKSC in *Cardtronics*.

[29] On an ordinary and natural reading, that definition does not contemplate that decisions of courts or tribunals in England and Wales, Northern Ireland (or indeed anywhere else other than Scotland) on the rating of hereditaments are capable of being material changes of circumstances affecting the value of lands and heritages in Scotland. The fact the definition specifies all of the adjudicative bodies capable of providing a “relevant decision” is a strong pointer against construing its opening words in the way suggested in the first construction argument. It would be very odd if, notwithstanding the care which the legislature took to list those bodies, the introductory words were to be interpreted as being capable of including a further body (or further bodies) which

adjudicated upon the rating of hereditaments outside Scotland. The ordinary and natural reading is far more consistent with the policy of the Valuation Acts already referred to than the construction proposed on the appellant's behalf.

[30] I have highlighted that the Lands Valuation Appeal Court is the apex court on questions of value for valuation for rating in Scotland. The UKSC is the apex court for all appeals from England and Wales and Northern Ireland. Decisions of the UKSC (or of any other court or tribunal in England and Wales and Northern Ireland) on the rating of hereditaments in those jurisdictions do not constitute "in relation to lands and heritages a change of circumstances affecting their value". On the other hand, if in a Scottish revaluation appeal or new occupier/proprietor/tenant appeal a tribunal or this court found such a decision to be persuasive, and followed it, the decision of that tribunal or court could be a material change of circumstances affecting the value of other subjects. It could be a "relevant decision". However, that would be a different case entirely from the present appeal, where the contention is that the UKSC decision is a material change of circumstances.

[31] I turn to the second construction argument. I reject the submission that the words "any relevant decision of the Lands Valuation Appeal Court or a valuation appeal committee the members of which are drawn from the valuation appeal panel serving the valuation area in which the land and heritages are situated or the Lands Tribunal for Scotland under section 1(3A) of the Lands Tribunal Act 1949" should be interpreted as including a decision of the UKSC on a rating matter relating to a hereditament. In my view, that is not even a possible reading of those words, far less the correct reading, according to any of the apposite canons of statutory construction. On the appellant's behalf it is suggested that appropriate words require to be read into the expression to avoid absurdity.

I disagree. There is nothing absurd about the legislature having confined a “relevant decision” to the decisions of an adjudicative body having power to determine the value of lands and heritages in Scotland. On the contrary, it is a perfectly rational and sensible restriction. Moreover, here too the ordinary and natural reading is far more consistent with the policy of the Valuation Acts already referred to than is the construction proposed on the appellant’s behalf.

[32] I do not say that a decision of the UKSC could never be a material change of circumstances affecting the value of lands and heritages in Scotland. For example, there might be decisions on the interpretation of non-rating United Kingdom legislation which are equally applicable throughout the United Kingdom. It is conceivable that some decisions of that nature might affect the beneficial enjoyment of particular categories of subjects. It is unnecessary, and probably undesirable, to anticipate such circumstances, because it is clear that this appeal is not such a case.

[33] Even if, contrary to my opinion, a decision of the UKSC on a question of the rating of a hereditament in England, Wales or Northern Ireland is capable of being a material change of circumstances affecting value in terms of the introductory words of the definition, or of being a “relevant decision”, it would not be such a decision unless it decided some important principle of valuation law or practice. A decision applying established law and valuation principles to the particular facts of the case in question could not be a material change of circumstances (cf. *Assessor for Lanarkshire v Bonnybridge Silica & Fireclays Co* 1963 SC 207, Lord Sorn at pp 216-217, Lord Kilbrandon at p 219, Lord Hunter at pp 220-221). The decision in *Cardtronics* applied established law and principles relating to rateable occupation to the particular facts found by the Upper Tribunal. The UKSC did not disapprove the *Bank of Ireland* case. On the contrary, it treated it as having been correctly decided on its facts. At

paragraph 24 of *Cardtronics* Lord Carnwath set out in full the reasoning of Lord Justice Clerk Gill at paragraphs [15] to [17] of *Bank of Ireland*, before going on to observe at paragraph 25:

“It seems clear that a typical ‘hole in the wall’ ATM in the external wall of a high street is part of the same hereditament as the rest of the bank, and is no different in that respect from a similar machine within the bank. It is equally clear that an ATM in a building adjacent to the bank, for example a post office (as in the *Bank of Ireland* case) whose occupation has no direct link with the function of the ATM, may be treated as a separate hereditament. The present appeals are not about such fundamental issues of principle, but simply about where to draw the line, in cases where the functions of the ATM and of the host building are not wholly disconnected.”

Critically, in *Cardtronics* the Upper Tribunal found in fact that both internal and external ATMs were part of the retailers’ overall businesses; that both the banks and the retailers derived a direct benefit from the use of the sites for the same purpose; and that they shared the economic fruits of the specific activity for which the sites were used (paragraph 49, read with paragraph 52). At paragraph 52 Lord Carnwath agreed with Lindblom LJ’s description (at paragraph 93 of *Cardtronics Europe Ltd and others v Sykes and others (Valuation Officers)* [2018] EWCA Civ 2472, [2019] 1 WLR 2281) of the position being:

“in ‘stark contrast’ with the ‘independent uncontrolled occupation ... by the bank for the purposes of the bank’s business’ and the absence of a ‘direct link’ with the Post Office use, as found in the *Bank of Ireland* case ...”

See also, to similar effect, Lindblom LJ’s observations at paragraphs 89, 90 and 93 of the Court of Appeal decision.

[34] The appellant accepted, rightly, that in all material respect the facts in the present case were indistinguishable from those in *Bank of Ireland*. Both *Cardtronics* and *Bank of Ireland* applied established law and principles to the facts found. The facts found here were materially different from those found in *Cardtronics*. They fully justified the FTT’s application of the decision and reasoning in *Bank of Ireland*. On a correct analysis, the payments made to the appellant by the bank represented the consideration paid for the use

of the site and for the minor maintenance and replenishing services which the appellant provided. In so far as the payments were for the use of the site, the economic benefit to the appellant was of the same kind as the economic benefit to the hypothetical landlord from payment of the rent or other consideration under the hypothetical tenancy envisaged by section 6(8) of the Valuation for Rating (Scotland) Act 1956 (as to which see Armour, *Valuation for Rating*, paragraphs 17-11 to 17-19A). The services which the appellant provided were of an ancillary nature. They did not interfere with the bank's paramount occupation for its provision of banking services.

[35] In my opinion the criticisms of the FTT's reasons are not well founded. The FTT gave adequate and intelligible reasons for their decision.

[36] As the appellant has failed to establish that the *Cardtronics* decision was a material change of circumstances affecting the value of the appeal subjects, the question of the effective date of such a change does not arise. However, had the decision been a material change, I see no good reason why the effective date ought not to have been that indicated by the proviso to section 2(2)(c), namely 1 April 2022.

[37] I propose to your Lordships that we refuse the appeal.



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[38] I am in agreement with the opinion delivered by Lord Doherty. For the reasons he gives, I consider that the appeal should be refused.