

Public Service Reform Directorate  
Local Government Division

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**Finance Circular - 9/2009**  
**By Email**

Chief Executives, Scottish Local Authorities

Copy to: Directors of Finance  
Heads of Revenue  
COSLA  
Scottish Assessors Association

Our ref: B2904874  
15 June 2009

Dear Chief Executive/Director of Finance/Head of Revenue/Assessor

**GUIDANCE ON THE USE OF COMPLETION NOTICES**

1. The purpose of this Circular is to draw your attention to guidance on the use of completion notices. Please cascade this circular within your local authority as appropriate. The guidance is set out below

**General**

2. The Circular is being sent electronically to the Scottish Assessors, Chief Executive of COSLA, Chief Executives, Directors of Finance and Heads of Revenue of each local authority and will be made available through the Local Government section of the Scottish Government website at:

<http://www.scotland.gov.uk/Topics/Government/local-government/17999/11203>

3. If you have any queries relating to the guidance please contact me on 0131 244 7025 or by email at [Jim.gilmour@scotland.gsi.gov.uk](mailto:Jim.gilmour@scotland.gsi.gov.uk).

Yours faithfully,

**JIM GILMOUR**  
**Senior Policy Officer**

# GUIDANCE FOR LOCAL AUTHORITIES – COMPLETION NOTICE

## Introduction

1. The purpose of this guidance note is to draw your attention to the procedure/need for the issue of Completion Notices, where a newly erected or constructed, but unoccupied, building is deemed to become unoccupied and therefore liable to non-domestic rates.
2. In many cases Completion Notices have not been issued in respect of the properties described above and this has called into question whether or not the Billing Authority (BA) is authorised to levy non-domestic rates against those properties.
3. In order to clarify the position and mitigate any further potential loss of rates which may result from a failure to issue a Completion Notice, we strongly suggest that BAs consider issuing a Completion Notice in all such cases.
4. BAs should note that Completion Notices issued for rating purposes are separate and distinct from any Completion Notice issued for planning purposes.
5. We would also strongly suggest that BA's should in all cases liaise with the relevant Assessor **before** issuing a Completion Notice.

## Background

6. The primary legislation is contained in section 24 of the Local Government (Scotland) Act 1966 and Paragraph 3(1) of Schedule 3 of that Act as amended, following the introduction of the unoccupied rate by the Local Government etc. (Scotland) Act 1994.
7. There are circumstances in which the owner may leave lands and heritages (referred to as "building" from this point on) incomplete. In these circumstances the BA can serve a Completion Notice on the owner stating the date it considers a building can be expected to be completed.
8. The serving of a Completion Notice has three implications:
  - It sets the date at which the building is deemed to be complete for the purposes of creation of a rating liability,
  - It sets the date for unoccupied liability,
  - It may determine the date of deletion of any buildings from which the new buildings are created.

## **Unoccupied Property**

9. Where a day is determined under Schedule 3(1) as the completion day and that building is not occupied on that day, then it shall be deemed for the purposes of the Local Government etc. (Scotland) Act 1994, to become unoccupied on that day.

## **Service of completion notices**

10. The BA can serve Completion Notices on the owner of a new building where:

- It comes to the notice of a BA that the work remaining to be done on a new building is such that the building can reasonably be expected to be completed within three months.
- It comes to a BA's notice that a new building has been completed.

## **Liaison with the Assessor**

11. In most cases, the BA will receive notification from the Assessor that a newly erected or constructed, but unoccupied, building is complete and due to be entered on the Valuation Roll. We strongly suggest that BAs consider issuing a Completion Notice in all such cases. The Assessor will also notify the rateable value of the building.

12. The Assessor and the BA should be prepared to liaise when deciding the date a building is deemed to be complete and capable of being entered into the Valuation Roll. However, the Assessor has no statutory power in the Completion Notice proceedings and it is ultimately the BA decision whether to issue a notice and on what date.

13. We suggest that where the BA plans to serve a Completion Notice they notify the relevant Assessor in writing of their intention. This is to prevent the BA from notifying a completion date after the date that would otherwise have been adopted by the Assessor for the Valuation Roll.

14. The three months time period should not be confused with the current three month exemption period between the completion day and the commencement of unoccupied rate liability. The two run consecutively, so there could be six months between the service of the Completion Notice and the commencement of non-domestic rate payment.

15. A BA **should** supply the Assessor with a copy of any Completion Notice issued. They should also inform the Assessor if they withdraw the Completion Notice, or agree a different day as the completion day.

## **Withdrawal of completion notice**

16. A Completion Notice may be withdrawn by serving a subsequent Completion Notice on the owner, except:

- i) where an appeal has been made against the Completion Notice the Completion Notice can only be withdrawn with the written consent of the owner.
- ii) a subsequent Completion Notice cannot be issued once a day has been determined as the completion day.

### **Contents of completion notice**

17. The Completion Notice shall specify the buildings to which it relates and state the completion day.

18. If when the Completion Notice is served the building is not completed, the completion day shall be such a day, not later than three months from the day on which the Completion Notice is served, as the BA considers is a day by which the building can reasonably be expected to be completed. However, if the building is complete the BA shall propose the day on which the Completion Notice is served as being the completion day.

19. It is possible to agree a different day as being the completion day in discussion with the owner.

### **Appeals against Completion Notices**

20. A person on whom a Completion Notice is served has the right of appeal to the Sheriff under Schedule 3 para 4 of the Local Government (Scotland) Act 1966. The appeal must be on the grounds that the building is not or cannot reasonably be completed by the completion date on the notice.

21. The owner has 21 days from the date of service of the Completion Notice in which to make such an appeal.

22. There are no provisions for the Sheriff to notify the Assessor that an appeal has been made. However a copy of any Sheriff's appeal decision could usefully be passed on by the BA.

### **Valuations for Completion Notices**

#### ***Overview***

23. BAs should be aware that following the service of a Completion Notice there are three issues the Assessor must address;

- i) the unit of Valuation,
- ii) the assumed standard of completion,
- iii) the timing of alterations and effective dates.

#### ***The Unit of Valuation***

24. It will be for the Assessor to determine the unit of Valuation in relation to what appears to be the most likely pattern of future occupation. This is regardless of whether the BA serves one Completion Notice for the whole building or several Completion Notices for each part. The Assessor determines the number of buildings.

### ***Assumed Standard of Completion***

25. If the building subject to the Completion Notice is not actually complete, it will be assumed to be ready for, or capable of, occupation for the use appropriate to that type of buildings. A building should be ready for occupation for the purpose for which it was intended (as a shop, office, factory etc.) not only when the furniture and equipment necessary for its actual occupation is installed when occupation will have commenced. However, a newly erected building is completed for the purpose of a Completion Notice only when it could be ready for occupation within three months of the date of the Completion Notice and not when it is structurally complete.

26. Difficulties may be encountered as to what standard and final design the building will eventually be completed to. In determining the standard of the final finish the Assessor should liaise with the BA as to what was assumed by the BA in setting the Completion Notice date.

### ***Altering the Valuation Roll***

27. The Assessor is responsible for alterations to the Valuation Roll and will advise the BA of the 'effective date' for the purposes of an entry in the roll. We would suggest that this date is adopted by the BA as the completion date to link the completion date with the Valuation Roll entry

28. Problems can arise as to what description to use for an empty property. A decision should be made based on the facts taking into account how the property is marketed, the predominant use of existing occupied units, planning situation etc. This will be determined by the Assessor in liaison with the BA.

### **Conclusion**

- The Local Government (Scotland) Act 1966 provides a mechanism for determining the day on which a new building is to be deemed to be complete/occupied and therefore entered on to the Valuation Roll.
- The BA has power to serve Completion Notices on owners of new buildings which are deemed unoccupied and we advise that they do.
- The matter is primarily the BA's responsibility but liaison with the Assessor **should** take place at all stages.
- A suggested draft Completion Notice is shown below

A **(draft)** Completion Notice.

**Completion Notice**

Case reference number .....

Address.....

**Completion Date:** 00/00/0000

**Building Address:** .....

Dear .....

The purpose of this notice is to inform you that (the BA) is of the opinion that under Schedule 3, Para 1 of the Local Government (Scotland) Act 1966, the erection of the building specified above has been completed; or that the work remaining to be done is such that the erection of the building can reasonably be expected to be completed within three months.

The enactments relating to rating will apply to the building above from the completion date specified and the property will be liable for non-domestic rates.

You have a right to appeal this decision. Appeals must be made to the relevant Sheriff within 21 days of the serving of this Completion Notice on the ground that the erection of the building to which the Completion Notice relates has not been completed, or, as the case may be, cannot reasonably be expected to be completed, by the date specified by the notice. Contact details for the Sheriff can be found on the following website:

[www.scotcourts.gov.uk/sheriff/gazetteer.asp](http://www.scotcourts.gov.uk/sheriff/gazetteer.asp)

If you would like to discuss this matter or require any further assistance please contact our revenues department: Address, telephone etc.

A copy of this letter has been sent to the local Assessor.

Yours faithfully.....