

1990 No. 1822

RATING AND VALUATION

The Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (No. 2) Regulations 1990

<i>Made</i> - - - -	<i>5th September 1990</i>
<i>Laid before Parliament</i>	<i>6th September 1990</i>
<i>Coming into force</i> -	<i>27th September 1990</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 55(2), (4) to (6), 143(1) and (2) and 146(6) of, paragraphs 10 to 12 of Schedule 7A to, and paragraphs 8 and 11 of Schedule 11 to, the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals as required by section 10 of the Tribunals and Inquiries Act 1971(b), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (No. 2) Regulations 1990 and shall come into force on 27th September 1990.

General

2. The Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1990(c) ("the principal Regulations") shall be amended in accordance with these Regulations; and expressions used in these Regulations which are also used in the principal Regulations shall have the same meaning as in those Regulations.

Definitions

3.—(1) In regulation 2 (interpretation)—

(a) for the definition of "interested person" there shall be substituted the following—

“‘interested person’ in relation to a hereditament means—

(a) the occupier;

(b) any other person (other than a mortgagee not in possession) having in any part of the hereditament—

(i) a legal estate, or

(a) 1988 c.41. Schedule 5 to the Local Government and Housing Act 1989 (c.42) makes the following relevant amendments: paragraph 30 amends section 55, paragraph 40 inserts Schedule 7A, and paragraph 76 amends Schedule 11.

(b) 1971 c.62. Valuation and community charge tribunals are added to Schedule 1 to the 1971 Act by paragraph 41 of Schedule 12 to the 1988 Act.

(c) S.I. 1990/582, as amended by S.I. 1990/769.

- (ii) an equitable interest such as would entitle him (after the cessation of any prior interest) to possession of the hereditament or any part of it; and
- (c) any person having a qualifying connection with the occupier or with any person such as is described in paragraph (b);”;
- (b) after the definition of “ratepayer” there shall be added—
 - “‘subsidiary’, ‘company’ and ‘holding company’ have the same meanings as in sections 736 and 736A of the Companies Act 1985(a);”;
- (c) at the end there shall be added—
 - “(2) A person shall be treated as having a qualifying connection with another—
 - (a) where both persons are companies, and—
 - (i) one is a subsidiary of the other, or
 - (ii) both are subsidiaries of the same company; or
 - (b) where only one person is a company, the other person (the “second person”) has such an interest in that company as would, if the second person were a company, result in its being the holding company of the other.”.

(2) In regulation 3, the definition of “subsidiary” shall be omitted.

(3) Before section 144 of the Companies Act 1989(b) is in force, the amendments effected by paragraph (1) above shall be construed as if that section were already in force.

Alterations to local rating lists

4. For regulation 6 (limit to start of year) there shall be substituted the following—
- “6.—(1) No alteration such as is described in regulation 4 other than an alteration—
- (a) in pursuance of paragraphs (3) or (4) (completion notices)(c), or
 - (b) made in pursuance of the order of a tribunal under Part V of these Regulations
- shall have effect from a day earlier than the first day in the relevant year.
- (2) Where the alteration is made in pursuance of a proposal other than a proposal disputing the accuracy of a previous alteration to the list, the relevant year is the year in which the proposal was made.
- (3) Where the alteration is made in pursuance of a proposal disputing the accuracy of a previous alteration to the list, the relevant year is the year in which the disputed alteration was made.
- (4) In any other case, the relevant year is the year in which the alteration is made.”.

Proposals

5. At the end of regulation 10 (manner of making proposals) there shall be added—
- “(3) A proposal may deal with more than one hereditament—
- (a) in the circumstances mentioned in regulation 9(3); or
 - (b) where the person making the proposal does so in the same capacity as respects each hereditament, and each of the hereditaments is within the same building as each other hereditament or, where any of them is not within a building, it is within the same curtilage as the other or others.”.

6.—(1) Regulation 11 (proposals treated as invalid) shall be amended as follows.

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- (a) 1985 c.6. Section 736 is substituted and section 736A inserted by section 144 of the Companies Act 1989 (c.40).
 - (b) 1989 c.40. Section 144 is brought into force on 1st November 1990 by S.I. 1990/1392 (C.41).
 - (c) Completion notices are served under Schedule 4A to the Local Government Finance Act 1988, inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c.42).

(2) In paragraph (1)(b) for "paragraph (2)" there shall be substituted "paragraphs (2) to (4)".

(3) For paragraph (2) there shall be substituted—

"(2) Within four weeks of the service on him of a notice under paragraph (1), the person who made the proposal may—

- (a) subject to paragraph (2A), make a further proposal in relation to the same property, notwithstanding the previous expiry of any period applicable under regulation 9, or
- (b) appeal against the notice to the relevant valuation and community charge tribunal.

(2A) Where a valuation officer's notice under paragraph (1) relates to a proposal under paragraph (2)(a), no further proposal may be made under that paragraph.

(2B) Where a proposal is made under paragraph (2)(a), the proposal in respect of which the notice under paragraph (1) was served shall be treated as having been withdrawn."

Parties to settlements and appeals

7.—(1) For regulation 15(2)(d) there shall be substituted—

"(d) the ratepayer (at the date of the agreement) in relation to any hereditament to which it relates".

(2) Regulation 27(2)(b) (parties to appeals) shall be amended by the insertion at the end of the words "and any other person who—

- (i) has at any time since the proposal was made been an occupier of any hereditament to which it relates; and
- (ii) has served notice on the clerk that he wishes to be a party to the appeal".

Cross-country pipe-lines

8. At the end of regulation 17(1) (application of Part II of the principal Regulations to cross-country pipe-lines) there shall be added—

"and

- (c) any reference to an alteration of a list were a reference to its alteration in relation to a description of hereditaments, being hereditaments consisting of cross-country pipe-lines, prescribed by regulations under section 53(1) of the Act(a)".

Information used in evidence

9. In regulation 39 (evidence)—

(a) in paragraph (1), at the end there shall be added "or section 82 of the General Rate Act 1967"(b); and

(b) after paragraph (5) there shall be inserted—

"(5A) Nothing in the foregoing provisions of this regulation shall be construed as requiring the making available for inspection or copying, or the production of, any document in so far as it contains information other than information—

- (a) constituting direct evidence of the rent payable in respect of the specified hereditaments, or
- (b) which is otherwise reasonably required for the purposes of the relevant proceedings."

(a) Section 53 is amended by paragraph 29 of Schedule 5 to the Local Government and Housing Act 1989 (c.42). Regulations made under that section are the Central Rating Lists Regulations 1989 (S.I. 1989/2263, amended by S.I. 1990/502 and 1566).

(b) 1967 c.9.

Appeals to the Lands Tribunal

10. In regulation 45 (appeals), at the end there shall be added—

“(5) An appeal under paragraph (1) against a decision or order shall lie at the instance of any party who is aggrieved by it and who appeared at the hearing or, if the appeal was disposed of by written representations, who made such representations.”.

Notifications by valuation officer

11. After regulation 46 there shall be inserted—

“Notifications by valuation officer

46A.—(1) Where a valuation officer—

(a) applies to a tribunal under regulation 44 for the review of a decision in consequence of which an order requiring the alteration of a list was made; or

(b) appeals to the Lands Tribunal under regulation 45 against a decision in consequence of which such an order was made, or against such an order, he shall, at the same time or as soon as reasonably practicable thereafter, notify the relevant authority of the application or appeal.

(2) For the purposes of this regulation, where the application or appeal relates to the alteration of a local non-domestic rating list the relevant authority is the charging authority for whose area the list was compiled, and in any other case the relevant authority is the Secretary of State.”.

Supplementary provision

12.—(1) Where before the day on which these Regulations come into force—

(a) in pursuance of the principal Regulations a relevant document has been served on a valuation officer, and

(b) no notice under regulation 11(1) of those Regulations has been served in respect of that document before that day,

that document shall be treated as having been made, and served on the valuation officer, on that day.

(2) A relevant document is one which would have been a proposal if regulations 3 and 5 had been in force when it was served.

5th September 1990

Chris Patten
Secretary of State for the Environment

3rd September 1990

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1990.

Regulation 3 enlarges the definition of “interested person”, to the effect that proposals

for the alteration of a local non-domestic rating list may be made by a wider range of persons having a connection with the property concerned.

Regulation 4 substitutes a new regulation 6 of the principal Regulations, which deals with the time from which alterations to a local list may have effect.

Regulation 5 specifies the circumstances in which a proposal may deal with more than one hereditament.

Regulation 6 introduces a procedure enabling a fresh proposal to be made where a valuation officer treats a proposal as invalid.

Regulation 7 enlarges the category of former occupiers of a hereditament who may become parties to the settlement of a proposal or to an appeal.

Regulation 8 amends the principal Regulations in their application to alterations of central rating lists relating to cross-country pipe-lines.

Regulation 9 makes two changes in relation to information which may be used in evidence. Returns obtained under section 82 of the General Rate Act 1967 are permitted to be used in relation to appeals in relation to lists compiled under the Local Government Finance Act 1988; and information in the possession of valuation officers which does not consist of direct evidence of rent payable may be withheld from inspection, production and copying by others in so far as it is not reasonably required for the purposes of an appeal.

Regulation 10 restricts the persons who may be parties to an appeal against the decision or order of a valuation and community charge tribunal to the parties who appeared at the hearing, or made written representations, as the case may be.

Regulation 11 imposes a duty on a valuation officer who applies to a valuation and community charge tribunal for the review of certain decisions made by the tribunal, or appeals to the Lands Tribunal in respect of certain decisions or orders of a tribunal, to inform the charging authority or, as the case may be, the Secretary of State of the application or appeal.

Regulation 12 makes provision supplementary to regulations 3 and 5.