
STATUTORY INSTRUMENTS

2009 No. 2269

The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

PART 2

APPEALS: FUNCTIONS OF THE VTE AND GENERAL PROVISIONS

Arrangements for appeals

5.—(1) It shall be the duty of the VTE President to ensure that arrangements are made for appeals to be determined in accordance with the following provisions of these Regulations.

(2) The VTE shall not deal with an appeal under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations until any appeal under regulation 7 of the CT Regulations or regulation 8 of the NDR Regulations (as the case may be) in respect of the same proposal has been decided.

(3) Where two or more appeals relating to—

- (a) the same dwelling or dwellings are referred under regulation 10 of the CT Regulations; or
- (b) the same hereditament or hereditaments are referred under regulation 13 of the NDR Regulations,

the order in which the appeals are dealt with shall be the order in which the alterations in question would, but for the disagreements which occasion the appeals, have taken effect.

Appeal management powers

6.—(1) Subject to the provisions of Part 1 of Schedule 11 to the 1988 Act⁽¹⁾ and of these Regulations, the VTE may regulate its own procedure.

(2) The VTE may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the VTE may—

- (a) extend or shorten the time for complying with any regulation or direction;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat an appeal as a lead appeal (whether in accordance with regulation 7 or otherwise);
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, evidence, information, or submissions to the VTE or a party;
- (e) deal with an issue in proceedings as a preliminary issue;

(1) See paragraphs 1 and 2 of Schedule 15 to the Local Government and Public Involvement in Housing Act 2007 (c.28).

- (f) hold a hearing to consider any matter, including a case management issue;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay proceedings; or
- (k) suspend the effect of its own decision pending the determination by the Upper Tribunal⁽²⁾ or a court of an application for permission to appeal against, and any appeal against or review of, that decision.

Lead appeals

- 7.—(1) This regulation applies if—
- (a) two or more appeals have been made to the VTE—
 - (i) under regulation 10 of the CT Regulations (“related CT appeals”) or
 - (ii) under regulation 13 of the NDR Regulations (“related NDR appeals”);
 - (b) as regards each of the related CT or NDR appeals the VTE has not made a decision disposing of the proceedings; and
 - (c) the related CT or NDR appeals give rise to common or related issues of fact or law.
- (2) The VTE may give a direction—
- (a) specifying one or more of the related CT or NDR appeals as a lead appeal or lead appeals; and
 - (b) staying the other related CT or NDR appeals.
- (3) When the VTE makes a decision in respect of the common or related issues—
- (a) the VTE must send a copy of that decision to each party in each of the related CT or NDR appeals; and
 - (b) subject to paragraph (4), that decision shall be binding on each of those parties.
- (4) Within one month after the date on which the VTE sends a copy of the decision to a party under paragraph (3)(a), that party may apply in writing for a direction that the decision does not apply to, and is not binding on the parties to, a particular related CT or NDR appeal.
- (5) The VTE must give directions in respect of appeals which are stayed under paragraph (2)(b), providing for the disposal of, or further directions in, those appeals.
- (6) If before the VTE makes a decision in respect of the common or related issues—
- (a) the lead appeal is withdrawn; or
 - (b) where there is more than one lead appeal, all of the lead appeals are withdrawn,
- the VTE must give directions as to whether—
- (i) another appeal or other appeals are to be specified as a lead appeal or appeals; and
 - (ii) any direction affecting the related CT or NDR appeals should be set aside or amended.

Procedure for applying for and giving directions

- 8.—(1) The VTE may give a direction on the application of one or more of the parties or on its own initiative.
- (2) An application for a direction may be made—

(2) The Upper Tribunal has replaced the Lands Tribunal; see [S.I. 2009/1307](#).

- (a) by sending or delivering a written application to the VTE; or
 - (b) orally during the course of a hearing.
- (3) An application for a direction must state the reason for making that application.
- (4) Unless the VTE considers that there is good reason not to do so, the VTE must send written notice of any direction to every party and to any other person affected by the direction.
- (5) If a party or any other person sent notice of a direction under paragraph (4) wishes to challenge it, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

Failure to comply with Regulations, etc

- 9.**—(1) An irregularity resulting from failure to comply with any requirement in these Regulations or a direction does not of itself render void the proceedings or any step taken in the proceedings.
- (2) If a party has failed to comply with a requirement in these Regulations or a direction, the VTE may take such action as it considers just, which may include—
- (a) waiving the requirement;
 - (b) requiring the failure to be remedied; or
 - (c) exercising the power under regulation 8.

Striking out proceedings

- 10.**—(1) The proceedings, or the appropriate part of them, will automatically be struck out if the appellant has failed to comply with a direction that stated that failure by a party to comply with the direction would lead to the striking out of the proceedings or that part of them.
- (2) The VTE must strike out the whole or part of the proceedings if the VTE does not have jurisdiction in relation to the proceedings or that part of them.
- (3) The VTE may strike out the whole or a part of the proceedings if—
- (a) the appellant has failed to comply with a direction that stated that failure by the appellant to comply with the direction could lead to the striking out of the proceedings or that part of them;
 - (b) the appellant has failed to co-operate with the VTE to such an extent that the VTE cannot deal with the proceedings fairly and justly; or
 - (c) the VTE considers there is no reasonable prospect of the appellant’s appeal, or part of it, succeeding.
- (4) The VTE may not strike out the whole or part of the proceedings under paragraph (2) or (3) (b) or (c) without first giving the appellant an opportunity to make representations in relation to the proposed striking out.
- (5) If the proceedings, or part of them, have been struck out under paragraph (1) or (3)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.
- (6) An application under paragraph (5) must be made in writing and received by the VTE within one month after the date on which the VTE sent notification of the striking out to the appellant.
- (7) This regulation applies to a party to the proceedings other than the appellant as it applies to an appellant except that—
- (a) a reference to the striking out of the proceedings is to be read as a reference to the barring of that other party from taking further part in the proceedings; and

- (b) a reference to an application for the reinstatement of proceedings which have been struck out is to be read as a reference to an application for the lifting of the bar on that other party from taking further part in the proceedings.

(8) If a party other than the appellant has been barred from taking further part in the proceedings under this regulation and that bar has not been lifted, the VTE need not consider any response or other submission made by that party.

Substitution and addition of parties

11.—(1) The VTE may give a direction substituting a party if—

- (a) the wrong person has been named as a party; or
- (b) the substitution has become necessary because of a change of circumstances since the start of proceedings.

(2) The VTE may give a direction adding a person to the proceedings as a party.

(3) If the VTE gives a direction under paragraph (1) or (2), it may give such consequential directions as it considers appropriate.

No power to award costs

12. The VTE may not make any order in respect of costs.

Representatives

13.—(1) A party may appoint a representative (whether a legal representative or not) to represent that party in the proceedings, but the representative must not be a member of the VTE or the VTS or an employee of the VTS.

(2) If a party appoints a representative, that party (or the representative if the representative is a legal representative) must send or deliver to the VTE written notice of the representative's name and address unless the representative's name and address have already been given to the VO or, as the case may be, the LO.

(3) If the VTE receives notice that a party has appointed a representative under paragraph (2), it must send a copy of that notice to each other party.

(4) Anything permitted or required to be done by a party under these Regulations or a direction may be done by the representative of that party, except signing a witness statement.

(5) A person who receives due notice of the appointment of a representative—

- (a) must provide to the representative any document which is required to be provided to the represented party, and need not provide that document to the represented party; and
- (b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or the represented party.

(6) At a hearing a party may be accompanied by another person, other than a member of the VTE or the VTS or an employee of the VTS, whose name and address has not been notified under paragraph (2); and that person may act as a representative or otherwise assist in presenting the party's case at the hearing.

(7) Paragraphs (2) to (5) do not apply in relation to a person who accompanies a party under paragraph (6).

Calculating time

14.—(1) An act required by these Regulations or a direction to be done on or by a particular day must be done by 5pm on that day.

(2) If the time specified by these Regulations or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this regulation “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Bank and Financial Dealings Act 1971(3).

Sending and delivery of documents

15.—(1) Any document to be provided to the VTE under these Regulations or a direction must be—

- (a) sent by pre-paid post or delivered by hand to the address specified for the proceedings;
- (b) sent by fax to the number specified for the proceedings; or
- (c) sent or delivered by such other method and to such address as may be agreed by the VTE and the person by whom the documents are to be sent or delivered.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.

(3) If a party informs the VTE and all other parties that a particular form of communication (other than pre-paid post or delivery by hand) should not be used to provide documents to that party, that form of communication must not be used.

(4) If the VTE or a party sends a document to a party or the VTE by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient.

(5) A request under paragraph (4) must be made as soon as reasonably practicable after the recipient receives the document electronically.

(6) The VTE and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

Use of documents and information

16.—(1) The VTE may make an order prohibiting the disclosure or publication of—

- (a) specified documents or information relating to the proceedings; or
- (b) any matter likely to lead members of the public to identify any person whom the VTE considers should not be identified.

(2) The VTE may give a direction prohibiting the disclosure of information to a person if—

- (a) the VTE is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and
- (b) the VTE is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.

(3) If a party (“the first party”) considers that the VTE should give a direction under paragraph (2) prohibiting the disclosure of information to another party (“the second party”), the first party must—

- (a) exclude the relevant document or information from any documents that will be provided to the second party; and
 - (b) provide to the VTE the excluded document or information, and the reason for its exclusion, so that the VTE may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).
- (4) The VTE must conduct proceedings as appropriate in order to give effect to a direction under paragraph (2).
- (5) If the VTE gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the VTE may give a direction that the documents or information be disclosed to that representative if the VTE is satisfied that—
- (a) disclosure to the representative would be in the interests of the party; and
 - (b) the representative will act in accordance with paragraph (6).
- (6) Documents or information disclosed to a representative in accordance with a direction under paragraph (5) must not be disclosed either directly or indirectly to any other person without the VTE's consent.

Evidence and submissions

- 17.—(1) The VTE may give directions as to—
- (a) issues on which it requires evidence or submissions;
 - (b) the nature of the evidence or submissions it requires;
 - (c) whether any parties are permitted or required to provide expert evidence;
 - (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
 - (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
 - (i) orally at a hearing; or
 - (ii) by written submissions or witness statement; and
 - (f) the time at which any evidence or submissions are to be provided.
- (2) The VTE may—
- (a) admit evidence whether or not the evidence would be admissible in a civil trial in England; or
 - (b) exclude evidence that would otherwise be admissible where—
 - (i) the evidence was not provided within the time allowed by a direction;
 - (ii) the evidence was otherwise provided in a manner that did not comply with a direction; or
 - (iii) it would otherwise be unfair to admit the evidence.
- (3) Paragraph (4) applies to information—
- (a) supplied in pursuance of paragraph 5 of Schedule 9 to the 1988 Act, section 27(1) or (3) of the 1992 Act or regulation 24 of the NDR Regulations; and
 - (b) information contained in—

- (i) any document which, having been produced to the Commissioners for Her Majesty's Revenue and Customs in pursuance of section 28 of the Finance Act 1931(4) or furnished to them in pursuance of Schedule 2 to that Act, is for the time being in their possession or under their control; or
 - (ii) any land transaction return within the meaning of Part 4 (stamp duty land tax) of the Finance Act 2003(5).
- (4) Information to which this paragraph applies shall not be used in any relevant proceedings by a billing authority(6), a LO or a VO unless—
- (a) not less than two weeks' notice, specifying in relation to any information to be so used the documents or other media in or on which that information is held and the dwelling or hereditament to which it relates, has previously been given to every other party to the proceedings; and
 - (b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted, at any reasonable time—
 - (i) to inspect the documents or other media in or on which such information is held; and
 - (ii) to make a copy (other than a photographic copy) of, or of any extract from, any document containing such information.
- (5) Subject to paragraph (7), any person to whom notice relating to any dwelling has been given under paragraph (4)(a) ("P") may before the hearing serve notice on the LO specifying other dwellings as being dwellings which are comparable in character or otherwise relevant to P's case, and requiring the LO—
- (a) to permit P at any reasonable time specified in the notice to inspect and (if P so desires) to make a copy (other than a photographic copy) of, or of any extract from, any document containing information to which this regulation applies which relates to those other dwellings and is in the possession of the LO; and
 - (b) to produce at the hearing or to submit to the tribunal such documents as before the hearing P has informed the LO that P requires.
- (6) Subject to paragraph (7), any person to whom notice relating to any hereditament has been given under paragraph (4)(a) ("P") may before the hearing serve notice on the VO specifying other hereditaments as being hereditaments which are comparable in character or otherwise relevant to P's case, and requiring the VO—
- (a) to permit P at any reasonable time specified in the notice to inspect and (if P so desires) to make a copy (other than a photographic copy) of, or of any extract from, any document containing information to which this regulation applies which relates to those other hereditaments and is in the possession of the VO; and
 - (b) to produce at the hearing or to submit to the tribunal such documents as before the hearing P has informed the VO that P requires.
- (7) The number of dwellings or hereditaments specified in a notice under paragraph (5) or (6) shall not exceed four or, if greater, the number specified in the notice under paragraph (4)(a).

(4) 1931 c.28. Section 28(3) was amended by S.I. 2003/2867. By virtue of sections 5 and 50 of the Commissioners for Revenue and Customs Act 2005 (c.11), the reference in section 28 of the 1931 Act is to be taken as a reference to Her Majesty's Commissioners for Revenue and Customs.

(5) 2003 c.14. See sections 122 and 76(1). See also S.I. 2003/2837, to which there are amendments not relevant to these Regulations.

(6) For the definition of "billing authority" see section 144(2) of the Local Government Finance Act 1988 (c.41), substituted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 81(1) ("the 1992 Act"). In Part I of the 1992 Act, "billing authority" has the meaning given in section 1(2); see section 69(1).

(8) Nothing in paragraph (5) or (6) shall be construed as requiring the making available for inspection or copying, or the production of, any document insofar as it contains information other than information which is reasonably required for the purposes of the relevant proceedings.

(9) Where P has given notice to the LO under paragraph (5) or to the VO under paragraph (6), and the LO or the VO refuses or fails to comply with the notice, P may apply to the VTE or, as the case may be, the arbitrator appointed to determine the appeal; and the VTE or the arbitrator may, if satisfied that it is reasonable to do so, direct the LO or the VO to comply with the notice as respects all the dwellings or hereditaments or such of them as the VTE or the arbitrator may determine.

(10) If any document required to be made available for inspection in accordance with paragraph (5) or (6) is not maintained in documentary form, the duty to make it so available is satisfied if a print-out, photographic image or other reproduction of the document which has been obtained from the storage medium adopted in relation to the document is made available for inspection.

(11) In paragraphs (4) and (8) “relevant proceedings” means any proceedings on or in consequence of an appeal under section 16 of the 1992 Act, the CT Regulations, the NDR Regulations and any proceedings on or in consequence of a reference to arbitration under regulation 4.

(12) The contents of a list may be proved by the production of a copy of it, or of the relevant part, purporting to be certified to be a true copy by the LO or the VO (as the case may be).

(13) The contents of a completion notice may be proved by the production of a copy of it purporting to be certified to be a true copy by the proper officer of the relevant authority.

Summoning of witnesses, and orders to answer questions or produce documents

18.—(1) On the application of a party or on its own initiative, the VTE may—

- (a) by summons require any person to attend as a witness at a hearing at the time and place specified in the summons;
- (b) order any person to answer any questions or produce any documents in that person’s possession or control which relate to any issue in the proceedings.

(2) A summons under paragraph (1) must—

- (a) give the person required to attend 14 days’ notice of the hearing or such shorter period as the VTE may direct; and
- (b) where the person is not a party, make provision for the person’s necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in England.

(4) A summons or order under this regulation must—

- (a) state that the person on whom the requirement is imposed may apply to the VTE to vary or set aside the summons or order if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons or order.

Withdrawals and deemed withdrawals

19.—(1) A party may give notice of the withdrawal of its appeal, or any part of it—

- (a) at any time before a hearing to consider the disposal of the proceedings (or, if the VTE disposes of the proceedings without a hearing, before that disposal), by sending or delivering to the VTE a written notice of withdrawal; or
- (b) orally at a hearing.

(2) Where a party gives notice of withdrawal at a hearing, the notice of withdrawal shall not take effect unless the VTE panel consents to the withdrawal.

(3) A party which has withdrawn its appeal may apply to the VTE for the appeal to be reinstated.

(4) An application under paragraph (3) must be made in writing and be received by the VTE within one month after—

(a) the date on which the VTE received the notice under paragraph (1)(a); or

(b) the date of the hearing at which the appeal was withdrawn orally under paragraph (1)(b).

(5) An appeal in relation to which a notice has been served on the VTE under paragraph (3)(a) of regulation 13 of the CT Regulations (post-appeal agreements) shall be treated as withdrawn on the date on which the notice is served on the VTE.

(6) Where, after an appeal has been made to the VTE under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations (disagreement as to proposed alteration), the LO or the VO alters the list in accordance with the proposal to which the appeal relates, the LO or the VO (as the case may be) shall notify the VTE of that fact; and the appeal shall be treated as withdrawn on the date on which the notice is served on the VTE.

(7) Where, following the initiation of—

(a) an appeal against imposition of a CT penalty; or

(b) an appeal against imposition of a NDR penalty,

the LO or the VO decides to remit the penalty, the LO or the VO (as the case may be) shall notify the VTE of that fact; and the appeal shall be treated as withdrawn on the date on which the notice is served on the VTE.

(8) The VTE must notify each party in writing of a withdrawal under this regulation; and where a withdrawal has effect by virtue of any of paragraphs (5) to (7), the VTE shall serve on the appellant and on every other party to the appeal a written notice confirming that the appeal has been withdrawn and the date on which it is treated as withdrawn.

(9) Where the VTE's notice under paragraph (8) relates to the withdrawal of a CT appeal, or any part of it, the notice must specify the date by which a party (other than the withdrawing party) may serve notice on the VTE under regulation 22(1).

(10) In paragraph (9) "withdrawing party" means a person who made an appeal under regulation 10 of the CT Regulations and serves a notice under paragraph (1) of this regulation.

(11) Where—

(a) a further proposal is made under paragraph (3)(a) of regulation 7 of the CT Regulations (proposals treated as invalid) or paragraph (6)(a) of regulation 8 of the NDR Regulations (disputes as to validity of proposals);

(b) the proposal in respect of which the invalidity notice was served ("the original proposal") is treated as withdrawn⁽⁷⁾; and

(c) a disagreement as to the alteration which was the subject of the original proposal has been referred to the VTE under regulation 13 of the NDR Regulations (disagreement as to proposed alteration) as an appeal,

that appeal shall be treated as withdrawn.

(7) See regulation 8(8) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(S.I. 2009/2268) and regulation 7(5) of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2270).