
STATUTORY INSTRUMENTS

2009 No. 2269

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

PART 5

CORRECTING, REVIEWING, SETTING ASIDE AND APPEALING DECISIONS

Clerical mistakes and accidental slips or omissions

39. The VTE may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction, order or any document produced by it, by—

- (a) sending notification of the amended decision, direction or order, or a copy of the amended document, to all parties; and
- (b) making any necessary amendment to any information published in relation to the decision, direction, order or document.

Reviewing and setting aside decisions

40.—(1) A party may apply to the VTE in writing for the review of the whole or part of a decision which disposes of proceedings on an appeal.

(2) The VTE President may direct that a review be undertaken of the whole or part of a decision which disposes of proceedings on an appeal.

(3) An application under paragraph (1)—

- (a) must be made within 28 days of the date on which notice of the decision was sent; and
- (b) must be considered by the VTE President.

(4) The VTE President shall not grant an application under paragraph (1) unless at least one of the conditions in paragraph (5) is satisfied.

(5) The conditions referred to in paragraph (4) are—

- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;
- (b) a document relating to the proceedings was not sent to the VTE at an appropriate time;
- (c) a party or its representative was not present at a hearing relating to the proceedings and the party shows reasonable cause for its or its representative's absence;
- (d) there has been some other procedural irregularity in the proceedings;
- (e) the decision is affected by a decision of, or on appeal from, the Upper Tribunal or the High Court;
- (f) where the decision relates to an appeal against a completion notice, new evidence, whose existence could not have been discovered by reasonable inquiry or could not have been foreseen, has become available since the conclusion of the proceedings.

(6) Where an application under paragraph (1) is granted or a direction is given under paragraph (2), the VTE shall review the decision or part that is the subject of the review; and if it considers—

- (a) that any of the conditions specified in paragraph (5) is satisfied; and
- (b) that it is in the interests of justice to do so,

the VTE shall set aside the decision or part.

(7) Tribunal business arrangements⁽¹⁾ shall apply in relation to the selection of members of the VTE to review a decision or part of a decision as if the review were an appeal.

(8) If the VTE sets aside a decision it must revoke any order made in consequence of the decision and notify the parties in writing of the revocation.

(9) The VTE must notify the parties in writing—

- (a) of the result of an application under paragraph (1);
- (b) of the result of a review under paragraph (6); and
- (c) if, under paragraph (8), it revokes an order.

(10) Where, on the day on which an application under paragraph (1) is made, an appeal to the Upper Tribunal or the High Court in relation to the same issue as is the subject of the application remains undetermined, the VTE shall notify the Upper Tribunal or the High Court as soon as reasonably practicable—

- (a) after the application is made; and
- (b) after notice is given under any sub-paragraph of paragraph (9).

Records of decisions, etc

41.—(1) The VTE must make arrangements for each decision, each order under regulation 35 or 38, the effect of each correction under regulation 39, and each revocation under regulation 40(8) to be recorded.

(2) Records may be kept in any form, whether documentary or otherwise, and shall contain the particulars specified in the Schedule to these Regulations.

(3) Each record shall be retained for the period of six years beginning on the day on which an entry was last made in it.

(4) Any person may, at a reasonable time stated by or on behalf of the VTE and without making payment, inspect records which are required to be made by paragraph (1).

(5) If without reasonable excuse a person having custody of records (“the custodian”) intentionally obstructs a person in exercising the right conferred by paragraph (4), the custodian shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(6) The production in any proceedings in any court of law of a document purporting to be certified by the VTE President or the clerk of the VTE⁽²⁾ to be a true copy of a record of the VTE shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

(1) See paragraph A17(2) of Schedule 11 to the Local Government Finance Act 1988 inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 15, paragraphs 1 and 2.

(2) As to the clerk of the VTE, *see* section 105(2) of, and paragraph 9 of Schedule 4 to, the Local Government Act 2003 (c.26). Section 105 and Schedule 4 were amended by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 16, paragraphs 10, 11 and 13.

Appeals to the Upper Tribunal

42.—(1) An appeal shall lie to the Upper Tribunal in respect of a decision or order given or made by the VTE on an appeal under the NDR Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 3 of the 1988 Act.

(2) An appeal under paragraph (1) shall lie at the instance of—

- (a) any party who appeared at the hearing or, if the appeal was disposed of by written representations, who made such representations; or
- (b) any person whose application under regulation 40(1) for the review of the decision relied (whether in whole or part) on satisfaction of the condition mentioned in regulation 40(5)
- (c).

(3) Subject to paragraph (4), an appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order against which the appeal is made.

(4) Where—

- (a) the appeal is made by a person of the description specified in paragraph (2)(b); and
- (b) the VTE gave notice in relation to the person's application—

(i) that it would not undertake a review; or

(ii) having reviewed the decision or part, that it would not set aside the decision or part,

the appeal may be dismissed if it is not made within four weeks of the date of the VTE's notice.

(5) The Upper Tribunal may confirm, vary, set aside, revoke or remit the decision or order, and may make any order the VTE could have made.

(6) VOs must act in accordance with any order made by the Upper Tribunal; and paragraph 9 of Schedule 11 to the 1988 Act shall have effect as if the reference to a tribunal⁽³⁾ included a reference to the Upper Tribunal.

Appeals to the High Court

43.—(1) An appeal shall lie to the High Court on a question of law arising out of a decision or order which is given or made by the VTE on an appeal under section 16 of the 1992 Act or the CT Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 1 of the 1992 Act (council tax; England and Wales).

(2) Subject to paragraph (3), an appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order that is the subject of the appeal.

(3) Where—

- (a) the appeal is made by a person whose application under regulation 40(1) for the review of the decision relied (whether in whole or part) on satisfaction of the condition mentioned in regulation 40(5)(c); and
- (b) the VTE gave notice—

(i) that it would not undertake a review; or

(ii) having reviewed the decision or part, that it would not set aside the decision or part,

the appeal may be dismissed if it is not made within four weeks of the date of the VTE's notice.

(3) By virtue of paragraph 12A of Schedule 11 to the Local Government Finance Act 1988 ("the 1988 Act"), inserted by the Local Government and Public Involvement in Health Act 2007, Schedule 15, paragraphs 1 and 17, the reference in paragraph 9 of Schedule 11 to the 1988 Act to a tribunal is a reference, in relation to England, to the Valuation Tribunal for England.

(4) The High Court may confirm, vary, set aside, revoke or remit the decision or order, and may make any order the VTE could have made.

(5) Billing authorities⁽⁴⁾ and LOs must act in accordance with any order made by the High Court; and paragraph 10A of Schedule 11 to the 1988 Act⁽⁵⁾ shall have effect as if the reference to a tribunal included a reference to the High Court.

Notification of further proceedings

44.—(1) Where a LO or a VO—

- (a) applies to the VTE under regulation 40 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 Upper Tribunal under regulation 42 or the High Court under regulation 43 against a decision in consequence of which such an order was made, or against such an order,

the LO or, as the case may be, the VO must, at the same time or as soon as reasonably practicable afterwards, notify the authority concerned of the application or appeal.

(2) For the purposes of paragraph (1), the authority concerned—

- (a) in relation to a section 16 appeal, is the billing authority concerned;
- (b) where the application or appeal relates to the alteration of a local list, is the relevant authority for whose area the list was compiled; and
- (c) where sub-paragraph (b) does not apply and the application or appeal relates to a provision of the NDR Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 3 of the 1988 Act, is the Secretary of State.

(3) Where a VO appeals to the Upper Tribunal as mentioned in paragraph (1)(b), or receives notice of such an appeal instituted by another party, the VO must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

(4) Where, in relation to a decision or order made on an appeal against a completion notice, an authority appeals to the Upper Tribunal under regulation 42, or receives notice of such an appeal instituted by another party, it must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

(5) Where, in relation to a decision or order made on a section 16 appeal, a billing authority appeals to the High Court under regulation 43, or receives notice of such an appeal instituted by another party, it must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

(4) For the definition of “billing authority” see section 144(2) of the Local Government Finance Act 1988, 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).

(5) Paragraph 10A was inserted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 88.