

**2011 No. 434**

**COUNCIL TAX, ENGLAND**

**RATING AND VALUATION, ENGLAND**

**The Valuation Tribunal for England, Non-Domestic Rating and  
Council Tax (England) (Amendment) Regulations 2011**

<i>Made</i>	- - - -	<i>17th February 2011</i>
<i>Laid before Parliament</i>		<i>23rd February 2011</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Secretary of State in exercise of the powers conferred by sections 55(2) to (6), 143(1) and (2) of, and paragraphs A19, 8 and 16 of Schedule 11 to the Local Government Finance Act 1988(a), makes the following Regulations:

**Citation, application and commencement**

1. These Regulations, which apply in England only, may be cited as the Valuation Tribunal for England, Non-Domestic Rating and Council Tax (England) (Amendment) Regulations 2011 and shall come into force on 1st April 2011.

**Amendments to the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009**

2.—(1) The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(b) are amended as follows.

(2) For regulation 17(3)(a) (evidence and submissions) substitute—

“(a) supplied in pursuance of—

- (i) paragraph 5 of Schedule 9 to the 1988 Act,
- (ii) section 27(1) or (3) of the 1992 Act,
- (iii) regulations made under section 13 of, or Schedule 2 to, the 1992 Act, or
- (iv) regulation 24 of the NDR Regulations; and”.

(3) For regulation 19 substitute—

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(a) 1988 c.41. Section 55 was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 16, paragraphs 2 and 3. Schedule 11 was amended by the Local Government and Public Involvement in Health Act 2007, Schedule 15; see paragraphs 1 to 3 and 11 to 17 of Schedule 17 for the amendments relevant to England.

(b) S.I. 2009/2269.

**“Withdrawals and deemed withdrawals for council tax appeals**

**19.**—(1) This regulation applies to CT appeals only.

(2) 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.

(3) 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.

(4) A party which has withdrawn its appeal may apply to the VTE for the appeal to be reinstated.

(5) An application under paragraph (4) 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 (2)(a); or
- (b) the date of the hearing at which the appeal was withdrawn orally under paragraph (2)(b).

(6) 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.

(7) Where, after an appeal has been made to the VTE under regulation 10 of the CT Regulations (disagreement as to proposed alteration), the LO alters the list in accordance with the proposal to which the appeal relates, the LO 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) Where, following the initiation of an appeal against imposition of a CT penalty the billing authority decides to remit the penalty, the billing authority 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.

(9) 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 (6) to (8), 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.

(10) Where the VTE’s notice under paragraph (9) 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).

(11) In paragraph (10) “withdrawing party” means a person who made an appeal under regulation 10 of the CT Regulations and serves a notice under paragraph (2) of this regulation.”.

(4) After regulation 19, as substituted by paragraph (3), insert—

**“Withdrawals and deemed withdrawals for non-domestic rating appeals**

**19A.**—(1) This regulation applies to NDR appeals only.

(2) An appeal may be withdrawn—

- (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) where notice to that effect is given to the VTE by—
  - (i) in the case of an appeal against a completion notice or an appeal under paragraph 5C of Schedule 9 to the 1988 Act (penalties), the appellant in writing; or

- (ii) in any other case, but subject to paragraph (3), the VO; or
  - (b) subject to paragraph (4), orally at a hearing by the appellant.
- (3) Subject to paragraph (7), notice may not be given by a VO under paragraph (2)(a)(ii) unless every other party to the appeal has given written consent to the VO for the withdrawal of the appeal.
- (4) 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.
- (5) Where a party has withdrawn its appeal any party to the appeal may apply to the VTE for the appeal to be reinstated.
- (6) An application under paragraph (5) must be made in writing and be received by the VTE within one month after—
- (a) the date on which the party gave written consent to the VO for the withdrawal of the appeal under paragraph (3); or
  - (b) the date of the hearing at which the appeal was withdrawn orally under paragraph (2)(b).
- (7) Where, after an appeal has been made to the VTE under regulation 13 of the NDR Regulations (disagreement as to proposed alteration), the VO alters the list in accordance with the proposal to which the appeal relates, the VO 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) Where, following the initiation of an appeal against imposition of NDR penalty, the VO decides to remit the penalty, the VO 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.
- (9) The VTE must notify each party in writing of a withdrawal under paragraph (2)(a)(i) or (2)(b) of this regulation.
- (10) Where—
- (a) a further proposal is made under 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(a); 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.”.
- (5) In regulation 20 (interpretation of Part 3), for “19(1)” substitute “19(2)”.
- (6) In regulation 22(1) (CT appeals: new appellant’s appeal)—
- (a) for “19(9)” substitute “19(10)”; and
  - (b) for “19(8)” substitute “19(9)”.
- (7) In regulation 38 (orders other than consent orders)—
- (a) in paragraph (5), for the word “members” substitute “Panel”; and
  - (b) in paragraph (6), for the reference to “Paragraph (6)” substitute “Paragraph (5)”.
- (8) In paragraph (2) of regulation 41 (records of decisions, etc) omit the words “, and shall contain the particulars specified in the Schedule to these Regulations”.

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(a) See regulation 8(8) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2268).

### **Amendments to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009**

3.—(1) The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(a) are amended as follows.

(2) For paragraph (2)(e) of regulation 18 (relevant hereditaments) substitute—

“(e) regulation 14, except paragraphs (3) and (4) and (to the extent to which they relate to paragraphs (3) and (4)) paragraphs (2) and (7).”

(3) In regulation 25 (revocation, savings and transitional provision)—

(a) in paragraph (5), before the words “The Non-Domestic Rating” insert “Subject to paragraph (6),”; and

(b) after paragraph (5) insert—

“(6) With effect from the coming into force of the Valuation Tribunal for England, Non-Domestic Rating and Council Tax (England) (Amendment) Regulations 2011, paragraph (5) shall cease to have effect, to the extent to which it applies to regulation 13(8BA) of the 1993 Regulations.”

### **Amendments to the Valuation Tribunal for England (Membership and Transitional Provisions) Regulations 2009**

4.—(1) The Valuation Tribunal for England (Membership and Transitional Provisions) Regulations 2009(b) are amended in accordance with paragraph (2).

(2) In paragraph (3) of regulation 5 (disqualification: general), omit the words “; but this is subject to paragraphs (4) and (5)”.

Signed by authority of the Secretary of State for Communities and Local Government

*Bob Neill*

Parliamentary Under Secretary of State

Department for Communities and Local Government

17th February 2011

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply to England only, make amendments to four sets of regulations which were made in connection with the establishment of the Valuation Tribunal for England (“the VTE”) on 1st October 2009.

Regulation 2(2) substitutes a new sub-paragraph (a) in regulation 17(3) of the VTE (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (S.I. 2009/2269) (“the Procedure Regulations”). New sub-paragraph (a) includes a reference to “regulations made under section 13 of, or Schedule 2 to, the 1992 Act” which was omitted, in error, in the sub-paragraph which it replaces.

Regulations 2(3) and 2(4) substitute a new regulation 19 and insert a new regulation 19A into the Procedure Regulations to replace existing regulation 19 (withdrawals and deemed withdrawals). This is to rectify a problem which has been identified with the notification procedure contained in regulation 19 as it applies to non-domestic rating (“NDR”) appeals. New regulations 19 and 19A now contain separate provision for council tax appeals and NDR appeals respectively and paragraphs (5) and (6) of regulation 2 make amendments consequential to those changes.

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(a) S.I. 2009/2268.

(b) S.I. 2009/2267.

Paragraphs (7) and (8) of regulation 2 make amendments to correct drafting errors in the Procedure Regulations.

Regulation 3(2) substitutes a new sub-paragraph (e) in regulation 18(2) of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2009 (S.I. 2009/2268) (“the NDR Regulations”) to correct an erroneous cross-reference in, and to clarify the meaning of, that provision.

Regulation 3(3) amends regulation 25 (revocation, savings and transitional provision) of the NDR Regulations so that, with effect from the coming into force of these regulations, it will no longer be possible for an alteration reducing the rateable value shown in the rating list for a hereditament for 31st March 2000 to be made pursuant to regulation 13(8BA) of the NDR (Alteration of Lists and Appeals) (England) Regulations 1993 (S.I. 1993/291). The 1993 Regulations were revoked by regulation 25(4) of the NDR Regulations with savings for purposes connected with lists compiled before 1st April 2005 and were, prior to that, revoked with savings by regulation 44 of the NDR (Alterations of Lists and Appeals) Regulations 2005 (S.I. 2005/659).

Regulation 4 makes an amendment to correct an error in the Valuation Tribunal for England (Membership and Transitional Provisions) Regulations 2009 (S.I. 2009/2267).

An impact assessment has not been produced for these Regulations as no impact on the private or voluntary sector is foreseen.

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