

**EXPLANATORY MEMORANDUM TO**  
**THE NON-DOMESTIC RATING (ALTERATION OF LISTS AND APPEALS)**  
**(ENGLAND) (AMENDMENT) REGULATIONS 2015**

**2015 No. 424**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Regulations amend the date from which certain alterations to the non-domestic rating list will take effect. The purpose of the Regulations is to limit backdating of changes to the rating list arising from proposals made on or after 1 April 2015 and alterations by the valuation officer on or after 1 April 2016.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Regulations contain provisions which have retrospective effect. They include provision for alterations to the non-domestic rating list that are made after the instrument comes into force to have effect from the day on which the circumstances giving rise to the alteration first occurred, even if the circumstances first occurred before the instrument comes into force. Section 55(6)(a) of the Local Government Finance Act 1988 (“the 1988 Act”) provides that regulations made under that section may include provision as to the period for which or day from which an alteration of a list is to have effect (including provision that it is to have retrospective effect).

**4. Legislative Context**

4.1 Section 41 of the 1988 Act requires the valuation officer to compile and then maintain local non-domestic rating lists. Section 52 requires the valuation officer to compile and maintain central non-domestic rating lists. Section 55 of the 1988 Act provides for the Secretary of State to make regulations concerning the alteration of rating lists including (at section 55(6)) provision as to the period for which or day from which an alteration of a list is to have effect.

4.2 The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (“the 2009 Regulations”) made, in part, under powers in section 55 contain rules at regulation 14 to provide when alterations to rating lists should take effect. These regulations amend the rules in regulation 14 of the 2009 Regulations.

**5. Territorial Extent and Application**

5.1 This instrument applies to England only.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The existing rules, as to when alterations to rating lists should take effect, in regulation 14 of the 2009 Regulations provide that, subject to certain exceptions, the valuation officer may make an alteration to the rating list to correct an inaccuracy with retrospective effect until the first anniversary of the day that the next list is compiled. Normally, rating lists are compiled every 5 years so the maximum period during which an alteration by the valuation officer could be backdated was up to 6 years.

7.2 Sections 41(2) and 52(2) of the 1988 Act provide that rating lists must be compiled on 1 April 1990 and on 1 April in every fifth year afterwards. The current rating lists were compiled on 1 April 2010 and new lists were due to be compiled on 1 April 2015. The Growth and Infrastructure Act 2013 amended the 1998 Act to provide that lists were to be compiled on 1 April 2017 instead and on 1 April in every fifth year afterwards. However, when the dates of the new rating lists were postponed to 2017, it extended the life of the 2010 rating list to 7 years. As a result, the period over which alterations to rateable values could be backdated by the valuation officer was extended to 8 years. This means that, under the current arrangements, by March 2018, if the valuation officer altered the rating list to correct an inaccuracy a business could potentially have received a business rates bill backdated for up to 8 years. Extending the life of the 2010 rating list also gave ratepayers an extra 2 years in which to make proposals to the valuation officer for the rating list to be altered to correct an inaccuracy which, if successful, could be backdated to the start of the rating list.

7.3 The Government believes the possibility for an alteration to the rating list by the valuation officer to be backdated up to 8 years is excessively long and would give rise to uncertainty for businesses who would not be able to make arrangements in respect of their business rates bills with any confidence. Similarly, allowing ratepayers 2 further years in which to make proposals for the list to be amended to correct an inaccuracy which, if successful, could be backdated to the start of the rating list when ratepayers have already had up to 5 years in which to make proposals would increase uncertainty for local government and impede their ability to forecast their potential business rates income. Therefore, the Chancellor of the Exchequer announced at the 2014 Autumn Statement that the Government would change the rules so that alterations to rateable values can only be backdated to the period between 1 April 2010 and 1 April 2015 for alterations made by the valuation officer before 1 April 2016 and ratepayers' proposals made before 1 April 2015. Regulation 7 amends regulation 14 of the 2009 regulations to give effect to this policy.

7.4 Regulation 7(3) provides for two exceptions to the general policy. Where the valuation officer makes an alteration to the rating list then the ratepayer may make a proposal challenging that alteration. Ratepayers may also make a proposal if they believe the list is inaccurate by reason of a decision of the Valuation Tribunal or the Upper Tribunal. If those alterations or Tribunal decisions are made in the period running up to 1 April 2015 then without an exception to the general rule, ratepayers may have little opportunity to lodge associated proposals in time. Therefore, ratepayers will have 6 months from the date of the alteration or the date of the Tribunal decision in which to lodge proposals with retrospective effect to as early as 1 April 2010.

7.5 The amendments in regulations 3 to 6 are consequential to the amendments in regulation 7(2) and (3).

## **8. Consultation outcome**

8.1 As this is an Autumn Statement measure, no consultation was entered into.

## **9. Guidance**

9.1 The Valuation Office Agency publishes guidance for ratepayers and practitioners explaining the date from which alterations to the rating list can take effect.

## **10. Impact**

10.1 An impact assessment has not been produced for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation.

## **11. Regulating small business**

11.1 The Regulations will apply equally to all businesses paying non-domestic rates.

## **12. Monitoring & review**

12.1 The Government keeps the business rates system under regular review.

## **13. Contact**

Nick Cooper at the Department of Communities and Local Government Tel: 07795 367238 or email: [nick.cooper@communities.gsi.gov.uk](mailto:nick.cooper@communities.gsi.gov.uk) can answer any queries regarding the instrument.