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WELSH STATUTORY INSTRUMENTS

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**2005 No. 758 (W.63)**

**RATING AND VALUATION, WALES**

**The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005**

*Made* - - - - *15 March 2005*  
*Coming into force* - - *1 April 2005*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by the following provisions of the Local Government Finance Act 1988(1) and now vested in it, and after consultation with the Council on Tribunals as required by section 8 of the Tribunals and Inquiries Act 1992(2) —

sections 42(5), 53(5), 55(2) to (6) and (7A), 143(1) and (2); paragraph 2(6A) of Schedule 6; paragraphs 10 to 12 of Schedule 7A; paragraph 6(1A) of Schedule 9; and paragraphs 1, 4, 5, 6, 8, 11, 12 and 14 to 16 of Schedule 11:

**PART 1**

Preliminary

**Name, application and commencement**

1. These Regulations, which apply in relation to Wales only, are called the Non-Domestic Rating (Alterations of Lists and Appeals) (Wales) Regulations 2005 and shall come into force on 1 April 2005.

**Interpretation: General**

2.—(1) In these Regulations —

“the Act” means the Local Government Finance Act 1988;

“appeal” means an appeal under —

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(1) 1988 c. 41. Section 55(7A) and paragraph 6(1A) of Schedule 9 were inserted by paragraph 30(5) and 47 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 2(6A) was inserted by the Local Government and Housing Act 1989 and substituted by paragraph 4 of Schedule 10 to the Local Government Finance Act 1992 (c. 14). These powers were devolved, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), see the reference to the Local Government Finance Act 1988 in Schedule 1.

(2) 1992 c. 53.

- (a) regulation 8 or 13;
- (b) paragraph 4 of Schedule 4A(3) to the Act as it applies for the purposes of Part 3 of the Act (in these Regulations called an “appeal against a completion notice”); or
- (c) paragraph 5C of Schedule 9 to the Act (in these Regulations called an “appeal against imposition of a penalty”);

“authority” means a billing authority;

“clerk”, in relation to an appeal, means the clerk of the relevant valuation tribunal;

“completion notice” means a notice under paragraph 1 of Schedule 4A to the Act as it applies for the purposes of Part 3 of the Act (non-domestic rating), which states the completion day as 1 April 2005 or later;

“interested person” means —

- (a) in relation to a hereditament which forms part of the Crown Estate and is held by the Crown Estate Commissioners under their management within the meaning of section 1 of the Crown Estate Act 1961(4), the Crown Estate Commissioners,
- (b) in relation to any other hereditament,
  - (i) the occupier;
  - (ii) any other person (other than a mortgagee not in possession) having in any part of the hereditament either a legal estate, or an equitable interest such as would entitle them (after the cessation of any prior interest) to possession of the hereditament or any part of it; and
  - (iii) any person having a qualifying connection with any person described in subparagraph (i) or (ii);

“National Assembly” means the National Assembly for Wales;

“proposal” means a proposal for the alteration of a local non-domestic rating list or the central non-domestic rating list;

“proposer” means the person making a proposal;

“qualifying connection” has the meaning given in paragraph (2);

“ratepayer”, in relation to a hereditament, means the occupier or, if the hereditament is unoccupied, the owner;

“relevant authority”, in relation to a hereditament, means the authority in whose area the hereditament is situated;

“subsidiary”, “company” and “holding company” have the same meanings as in sections 736 and 736A of the Companies Act 1985(5);

“the relevant valuation tribunal”, in relation to a proposal or appeal and subject to regulation 22, means the valuation tribunal established by regulations under Schedule 11 to the Act for the area in which is situated the hereditament to which the proposal or appeal, as the case may be, relates; and

“valuation tribunal” means the members of a valuation tribunal convened in accordance with Part 5 for the purpose of disposing of an appeal under these Regulations.

- (2) A person shall be treated as having a qualifying connection with another —
  - (a) where both persons are companies, and —

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(3) Schedule 4A was inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).

(4) 1961 c. 55.

(5) 1985 c. 6. Section 736A was inserted by section 144 of the Companies Act 1989 (c. 40).

- (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.
- (3) Any reference in these Regulations to a party to an appeal includes the person making the appeal (“the appellant”) and —
- (a) in relation to an appeal under —
    - (i) regulation 8; or
    - (ii) an appeal against imposition of a penalty, the valuation officer or, as the case may be, the central valuation officer;
  - (b) in relation to an appeal under regulation 13 —
    - (i) every person whose agreement is required under regulation 12; and
    - (ii) any other person who has been a ratepayer in relation to the hereditament since the proposal was made and who has notified the valuation officer in writing before the hearing, or before determination on the basis of written representations under regulation 25, that they wish to be a party to the appeal;
  - (c) in relation to an appeal against a completion notice, the relevant authority.

## **PART 2**

### **Alteration of Local Rating Lists**

#### **Interpretation: Part 2**

**3.—(1)** In this Part —

“alteration” means alteration of a list in relation to a particular hereditament, and “alter” shall be construed accordingly;

“list” means a local non-domestic rating list compiled on or after 1 April 2005;

“material change of circumstances”, in relation to a hereditament, means a change in any of the matters mentioned in paragraph 2(7) of Schedule 6 to the Act;

“valuation officer”, in relation to a list, means the valuation officer for the authority for which the list is compiled and maintained.

#### **Circumstances in which proposals may be made**

**4.—(1)** The grounds for making a proposal to alter a list are as follows —

- (a) the rateable value shown in the list for a hereditament was inaccurate on the day the list was compiled;
- (b) the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the day on which the list was compiled;
- (c) the rateable value shown in the list for a hereditament is inaccurate by reason of an amendment to the classes of plant and machinery set out in the Schedule to the Valuation

- for Rating (Plant and Machinery) (Wales) Regulations 2000(6) which comes into force on or after the day on which the list was compiled;
- (d) the rateable value shown in the list for a hereditament by reason of an alteration made by a valuation officer is or has been inaccurate;
  - (e) the rateable value or any other information shown in the list for a hereditament is shown, by reason of a decision in relation to another hereditament of a valuation tribunal, the Lands Tribunal or a court determining an appeal or application for review from a valuation tribunal or the Lands Tribunal, to be or to have been inaccurate;
  - (f) the day from which an alteration is shown in the list as having effect is wrong;
  - (g) a hereditament not shown in the list ought to be shown in that list;
  - (h) a hereditament shown in the list ought not to be shown in that list;
  - (i) the list should show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does not do so;
  - (j) the list should not show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does so;
  - (k) property which is shown in the list as more than one hereditament ought to be shown as one or more different hereditaments;
  - (l) property which is shown in the list as one hereditament ought to be shown as more than one hereditament;
  - (m) the address shown in the list for a hereditament is wrong;
  - (n) the description shown in the list for a hereditament is wrong; and
  - (o) any statement required to be made about the hereditament under section 42 of the Act has been omitted from the list.
- (2) Subject to paragraph (3) —
- (a) an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1) exists;
  - (b) a relevant authority may make a proposal where it has reason to believe that one of the grounds set out in paragraph (1)(b), (e) and (g) to (j) exists; and
  - (c) a person who is not an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1)(c), (d) or (f) exists if that person was an interested person at any time during which the alteration or amendment in question had effect.
- (3) No proposal may be made —
- (a) by reference to more than one ground unless, for each of the grounds relied upon, the material day and the effective date are the same;
  - (b) by an interested person, where —
    - (i) that person (or a person having a qualifying connection with that person) has made a proposal to alter the same list in relation to the same hereditament on the same ground and arising from the same event;
    - (ii) a proposal to alter the list in relation to the same hereditament and arising from the same facts has been made by another person (excluding a person having a qualifying connection with the interested person) and has been considered and determined by a valuation tribunal (otherwise than as mentioned in regulation 30(4)) or, on appeal under regulation 37, by the Lands Tribunal;

- (c) on the ground set out in paragraph (1)(d), to the extent that the alteration in question gives effect to the decision of a valuation tribunal, the Lands Tribunal or a court determining an appeal or an application for a review from a valuation tribunal or Lands Tribunal in relation to the hereditament concerned.
- (4) In paragraph (3) —
  - (a) “effective date” means the day from which the alteration, if made, would have effect in pursuance of this Part;
  - (b) “event” means the compilation of the list, a material change of circumstances or an alteration of the list by the valuation officer; and
  - (c) “material day”, in relation to a hereditament, is the day determined by the rules in regulations under paragraph 2(6A) of Schedule 6 to the Act(7).

#### **Periods in which proposals may be made: 2005 list and subsequent lists**

5.—(1) Subject to paragraph (2), a proposal to alter a list compiled on or after 1 April 2005 may be made at any time before the day on which the next list is compiled.

- (2) A proposal on the ground set out in —
  - (a) regulation 4(1)(d) or (f) may only be made before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later;
  - (b) regulation 4(1)(e) may only be made within six months of the day on which the next list is compiled.

#### **Proposals: general**

6.—(1) A proposal shall be made by notice in writing served on the valuation officer which must —

- (a) state the name and address of the proposer;
- (b) state whether the proposer is, in respect of the property —
  - (i) the interested person;
  - (ii) the relevant authority; or
  - (iii) a person described in regulation 4(2)(c);
- (c) identify the property to which the proposal relates;
- (d) identify the respects in which it is proposed that the list be altered; and
- (e) include —
  - (i) a statement of the grounds for making the proposal and, in the case of a proposal made on any of the grounds set out in regulation 4(1)(a), (c) or (g) to (o), a statement of the reasons for believing that those grounds exist;
  - (ii) in the case of a proposal made on the ground set out in regulation 4(1)(b), a statement of the nature of the change in question and of the date on which the proposer believes the change occurred;
  - (iii) in the case of a proposal made on the ground set out in regulation 4(1)(d) or (f), a statement identifying the alteration in question, whether by reference to the day on which the alteration was made or otherwise;

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(7) Paragraph 2(6A) was inserted by paragraph 38 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42) and substituted by paragraph 4 of Schedule 10 to the Local Government Finance Act 1992 (c. 14).

- (iv) in the case of a proposal made on the ground set out in regulation 4(1)(e), the information specified in paragraph (2);
  - (v) in the case of a proposal made on the ground set out in regulation 4(1)(f), a statement of the day proposed in place of the day shown in the list; and
  - (vi) in the case of proposal made on one of the grounds set out in regulation 4 (1)(a) to (g), and (i) and (l), in respect of a hereditament occupied under a lease, easement or licence to occupy, the information specified in paragraph (3).
- (2) The information required by paragraph (1)(e)(iv) is —
- (a) the identity of the hereditament to which the decision in question relates;
  - (b) the name of the tribunal or court which made the decision;
  - (c) the date of the decision;
  - (d) the reasons for believing that the decision is relevant to the rateable value or other information to which the proposal relates; and
  - (e) the reasons for believing, in the light of the decision, that the rateable value or other information to which the proposal relates is inaccurate.
- (3) The information required by paragraph (1)(e)(vi) is the amount payable each year, as at the date of the proposal, in respect of the lease, easement or licence to occupy.
- (4) A proposal may deal with more than one hereditament only —
- (a) if it is made on the grounds set out in regulation 4(1)(k) or (l); or
  - (b) where the person making the proposal does so in the same capacity as respects each hereditament and each hereditament is within the same building or the same curtilage.
- (5) A proposal made on the grounds set out in regulation 4(1)(d) or (f) may include a request for either or both of the following —
- (a) the restoration of the list to its state before the alteration was made; and
  - (b) a further alteration of the list in respect of the hereditament.

### **Acknowledgement of proposals by valuation officer**

7.—(1) Subject to paragraph (2), within the period of four weeks beginning with the day on which he receives a proposal, the valuation officer must by notice in writing served on the proposer acknowledge its receipt.

(2) Paragraph (1) does not apply where a valuation officer serves a notice under regulation 8 in respect of the proposal.

(3) A notice under paragraph (1) shall specify the date of receipt of the proposal and shall be accompanied by a statement of the effect of regulations 9 to 13.

### **Invalid proposals**

8.—(1) Where the valuation officer is of the opinion that a proposal has not been validly made, the valuation officer may within four weeks of its service on the valuation officer serve notice (an “invalidity notice”) on the proposer that the valuation officer is of that opinion, and stating —

- (a) the reasons for that opinion, and
- (b) the effect of paragraphs (3) to (6).

(2) The valuation officer may at any time withdraw an invalidity notice by serving notice in writing on the proposer; and on such withdrawal any appeal against the invalidity notice shall be treated as having been withdrawn.

(3) Unless an invalidity notice has been withdrawn in accordance with paragraph (2), the proposer may, within four weeks of its service on him,

- (a) subject to paragraph (4), make a further proposal in relation to the same property, notwithstanding the previous expiry of any period applicable under regulation 5, or
- (b) appeal against the notice to the relevant valuation tribunal.

(4) No proposal may be made under paragraph (3)(a) where the proposal to which the invalidity notice relates was made —

- (a) under paragraph (3)(a); or
- (b) after the expiry of any period applicable under regulation 5.

(5) Where a proposal is made under paragraph (3)(a), the proposal in respect of which the invalidity notice was served shall be treated as withdrawn.

(6) An appeal against an invalidity notice shall be initiated by serving notice of disagreement on the valuation officer.

(7) Unless the valuation officer withdraws the invalidity notice within four weeks of the service of the notice under paragraph (6), on the expiry of that period the valuation officer must inform the clerk of the relevant valuation tribunal of —

- (a) the entry in the list (if any) which it is proposed to alter;
- (b) the grounds on which the proposal was made; and
- (c) the reasons for the valuation officer's opinion that the proposal has not been validly made.

(8) Where information relating to an invalidity notice has been supplied in accordance with paragraph (7) and the notice is withdrawn, the valuation officer must, as soon as practicable, inform the clerk of the relevant valuation tribunal of the withdrawal.

(9) Until it is finally decided that the proposal to which an invalidity notice relates was validly made, regulations 9 to 13 shall not apply in relation to the proposal; and where it is finally decided as so mentioned, those regulations shall have effect as if the proposal had been served on the valuation officer on the date of that final decision.

(10) For the purposes of paragraph (9), a final decision is made —

- (a) where the invalidity notice is withdrawn, on the day of the withdrawal;
- (b) in any other case, on the day on which —
  - (i) the valuation tribunal having determined the appeal, the period within which an appeal may be made to the Lands Tribunal under regulation 37 expires without such an appeal being made; or
  - (ii) the Lands Tribunal gives a decision on appeal under regulation 37.

(11) Nothing done under this regulation shall be construed as preventing any party to an appeal under regulation 13 from contending for the purposes of that appeal that the proposal to which the appeal relates was not validly made.

### **Procedure subsequent to the making of proposals**

**9.—(1)** Within the period of six weeks beginning on the day on which a proposal is served on the valuation officer, the valuation officer must serve a copy of the proposal on each of the following provided that person is not the proposer —

- (a) any ratepayer in relation to any hereditament to which the proposal relates; and
- (b) the relevant authority, where that authority —
  - (i) is a special authority, or

(ii) has served notice on the valuation officer that it wishes to receive a copy of a class or classes of proposal, and the proposal falls within any such class.

(2) Each copy of a proposal served on a ratepayer shall be accompanied by a statement of the effect of this regulation and regulations 10 to 13.

### **Proposals agreed by valuation officer**

**10.** Where the valuation officer is of the opinion that a proposal is well-founded, the valuation officer must as soon as reasonably practicable alter the list accordingly.

### **Withdrawal of proposals**

**11.**—(1) Subject to paragraph (2), the proposer may withdraw the proposal by notice in writing served on the valuation officer.

(2) A proposal may not be withdrawn where the proposer was a ratepayer in respect of the hereditament at the date of the proposal but is no longer, unless the person who currently is the ratepayer agrees in writing.

(3) Where —

(a) within the period of two months beginning on the day on which a proposal is served on the valuation officer an interested person serves notice in writing on the valuation officer that they wish to be a party to the proceedings in respect of that proposal; and

(b) after service of such a notice the proposal is withdrawn in accordance with this regulation, the valuation officer shall serve notice of that withdrawal on that interested person.

(4) Where, within the period of six weeks beginning on the day on which a notice under paragraph (3) is served on them, an interested person serves notice in writing on the valuation officer that they are aggrieved by the withdrawal of the proposal —

(a) the notice shall, if that person would at the date of the proposal have been competent to make that proposal, be treated for the purposes of the following provisions of these Regulations as if it had been a proposal in the same terms made on the day on which the notice was served; and

(b) any resulting alteration shall have effect from the day which would have been applicable had there been no withdrawal under this regulation.

### **Agreed alterations following proposals**

**12.**—(1) Where, following the making of the proposal all the persons mentioned in paragraph (2) agree on an alteration of the list in accordance with this Part in terms other than those contained in the proposal, and that agreement is signified in writing —

(a) subject to paragraph (4), the valuation officer must, not later than the expiry of the period of two weeks beginning on the day on which the agreement was made, alter the list to give effect to the agreement; and

(b) the proposal shall be treated as having been withdrawn.

(2) The persons referred to in paragraph (1) are —

(a) the valuation officer;

(b) the proposer;

(c) subject to paragraph (3), the occupier (at the date of the proposal) of any hereditament to which it relates;



- (d) the ratepayer (at the date of the agreement) in relation to any hereditament to which it relates;
  - (e) subject to paragraph (3), any interested person or relevant authority who —
    - (i) would at the date of the proposal have been competent to make the proposal in question, and
    - (ii) has within the period of two months beginning on the day on which the proposal was served on the valuation officer served notice on them in writing indicating a wish to be party to proceedings in respect of the proposal.
- (3) Where —
- (a) the occupier of the hereditament at the date of the proposal is no longer in occupation of any part of it at the date on which all the other persons mentioned in paragraph (2) have agreed as mentioned in paragraph (1), and the valuation officer has taken all reasonable steps to ascertain their whereabouts, but they have not been ascertained, or
  - (b) any interested person who has given notice as mentioned in paragraph (2)(e) cannot be contacted at the address supplied to the valuation officer (whether in the notice or otherwise),

the agreement of that person under the foregoing provisions of this regulation shall not be required.

(4) Where the period of two weeks mentioned in paragraph (1)(a) would expire before the period of two months mentioned in paragraph (2)(e), the alteration required by paragraph (1)(a) shall, where no notice is served as mentioned in paragraph (2)(e), be made as soon as practicable after the expiry of that period of two months.

### **Disagreement as to proposed alteration**

- 13.—**(1) Where the valuation officer is not of the opinion that a proposal is well-founded, and
- (a) the proposal is not withdrawn, and
  - (b) there is no agreement as provided in regulation 12,

the disagreement, no later than the expiry of the period of three months beginning on the day on which the proposal was served on the valuation officer, must be referred by the valuation officer, as an appeal by the proposer against the valuation officer's refusal to alter the list, to the relevant valuation tribunal.

(2) A referral under paragraph (1) shall take place by means of the transmission to the clerk of the tribunal of a statement of the following matters —

- (a) the entry in the list (if any) which is proposed to be altered;
- (b) the date of service of the proposal;
- (c) the names and addresses (where known to the valuation officer) of all persons whose agreement is required by regulation 12; and
- (d) the grounds on which the proposal was made.

(3) The valuation officer must transmit to the clerk of the tribunal the name and address supplied to him by any other person who has given notice under regulation 2(3)(b)(ii) that they wish to be a party to the appeal.

### **Time from which alteration is to have effect: 2005 and subsequent lists**

**14.—**(1) Subject to regulation 34, this regulation has effect in relation to alterations to a list compiled on or after 1 April 2005.

(2) Subject to paragraphs (3) to (7), where an alteration is made to correct any inaccuracy in the list on or after the day it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred.

(3) Subject to paragraph (4), where an alteration is made to give effect to a completion notice, the alteration shall have effect from the day specified in the notice.

(4) Where under Schedule 4A to the Act a different day is—

- (a) substituted by a different notice under paragraph 1(3) of that Schedule;
- (b) agreed under paragraph 3 of that Schedule; or
- (c) determined in pursuance of an appeal under paragraph 4 of that Schedule,

the alteration shall have effect from the day so substituted, agreed or determined.

(5) Where the day on which the relevant circumstances arose is not reasonably ascertainable —

- (a) where the alteration is made in pursuance of a proposal, the alteration shall have effect from the day on which the proposal was served on the valuation officer; and
- (b) in any other case, the alteration shall have effect from the day on which it is made.

(6) An alteration made to correct an inaccuracy (other than one which has arisen by reason of an error or default on the part of a ratepayer) —

- (a) in the list on the day it was compiled; or
- (b) which arose in the course of making a previous alteration in connection with the matters mentioned in the foregoing paragraphs,

which increases the rateable value shown in the list for the hereditament to which the inaccuracy relates, shall have effect from the day on which the alteration is made.

(7) Where an alteration falls to be made after the first anniversary of the day on which the next list is compiled it shall have retrospective effect only if it is made in pursuance of a proposal.

### **Advertising rights**

**15.—(1)** For the purposes of regulation 14 where the circumstances giving rise to the alteration are the coming into existence of an advertising hereditament those circumstances shall be treated as occurring when —

- (a) any structure or sign is erected, after the right constituting the hereditament has been let out or reserved, to enable the right to be exercised; or
- (b) any advertisement is exhibited in pursuance of the right,

whichever is earlier; and such a hereditament shall be treated for the purposes of Part 3 of the Act as coming into occupation at that time.

(2) The erection, dismantling or alteration of any structure or sign for enabling the advertising right to be exercised, after the time mentioned in paragraph (1), shall be treated for the purposes of a proposal made on the grounds set out in regulation 4(1)(b) as a material change of circumstances.

(3) In this regulation —

“advertising hereditament” means a hereditament consisting of a right to which section 64(2) of the Act applies;

“advertising right” means a right which is such a hereditament; and

“structure” includes a hoarding, frame, post or wall.

### **Effective date to be shown in the list**

16. Where an alteration is made, the list shall show the day from which the alteration is to have effect in pursuance of this Part.

### **Notification of alteration**

17.—(1) Within four weeks of altering a list a valuation officer must serve a notice in writing on the relevant authority stating the effect of the alteration; and the relevant authority must as soon as is reasonably practicable alter the copy of the list deposited by it at its principal office under section 41(6B) of the Act.

(2) Subject to paragraph (3), no later than the day on which the notice is served under paragraph (1) the valuation officer must serve a notice in writing on the ratepayer and on any proposer, as defined in paragraph (5), stating —

- (a) the effect of the alteration; and
- (b) subject to paragraph (4), the effect of the application of this Part, and of Part 5, in relation to the alteration.

(3) Paragraph (2) does not apply in relation to alterations effected solely for the purpose of correcting a clerical error, or for reflecting —

- (a) a change in the address of the hereditament concerned; or
- (b) a change in the area of the relevant authority.

(4) Paragraph (2)(b) does not apply in relation to an alteration effected for reflecting —

- (a) a decision of the valuation officer that a proposal is well-founded;
- (b) a decision, in relation to the hereditament which is the subject of the proposal, of a valuation tribunal or the Lands Tribunal or of a court determining an appeal or an application for review from a valuation tribunal or the Lands Tribunal; or
- (c) an agreement under regulation 12.

(5) The proposer mentioned in paragraph (2) is any proposer for whom an appeal in relation to the hereditament has been referred to the relevant valuation tribunal under regulation 13(1) and whose appeal has either —

- (a) not been determined by that tribunal; or
- (b) has been so determined and either —
  - (i) an appeal has been made to the Lands Tribunal under regulation 37 and that appeal has not been determined; or
  - (ii) the time for making an appeal to the Lands Tribunal under regulation 37 has not yet expired.

(6) The valuation officer must take such steps as are reasonably practicable to secure that any notice under paragraph (2) is served not later than the corresponding notice under paragraph (1).

## **PART 3**

### **Alteration of Central Rating Lists**

#### **Relevant hereditaments**

18.—(1) In relation to a hereditament (in this regulation referred to as a “relevant hereditament”) which is required by regulations under section 53 of the Act to be shown in a central non-domestic

rating list compiled on or after 1 April 2005, the regulations mentioned in paragraph (2) shall apply, as modified by paragraphs (3), (4) and (5), as if —

- (a) any reference to a local non-domestic rating list were a reference to the central non-domestic rating list;
  - (b) any reference to a valuation officer were a reference to the central valuation officer; and
  - (c) any reference to an alteration of a list were a reference to its alteration in relation to a description of hereditaments.
- (2) The regulations are —
- (a) regulation 4 (except sub-paragraphs (k) and (l) of paragraph (1) and paragraph (3));
  - (b) regulations 5 to 8, 9(1)(a) and (2), and 10 to 13,
  - (c) regulation 14 (except paragraphs (3) and (4) and the reference to those paragraphs in paragraph (2)),
  - (d) regulations 16 and 17 (except paragraph (3)(b)).
- (3) Regulation 4(1)(o) shall apply as if the reference to section 42 of the Act were a reference to section 53.
- (4) Regulation 17(1) shall apply as if the reference to the relevant authority and its principal office were a reference to the National Assembly.
- (5) Regulations 8 and 13 shall apply as if references to a relevant valuation tribunal were to the valuation tribunal established by regulations under Schedule 11 to the Act for the area in which the designated person has its principal place of business within England and Wales.
- (6) At the same time as the central valuation officer serves a copy of a proposal on the ratepayer under regulation 9(1) in relation to a relevant hereditament he shall serve such a copy on the National Assembly.
- (7) In this regulation “the designated person” means the person designated by regulations under section 53 of the Act in relation to the description of hereditaments which includes the relevant hereditament to which the alteration or proposed alteration relates.

## PART 4

### Appeals Against Completion Notices and Penalty Notices

#### Appeals against completion notices

**19.**—(1) An appeal against a completion notice shall be initiated by serving on the clerk, within four weeks of the service of the notice, a notice in writing (a “notice of appeal”) accompanied by —

- (a) a copy of the completion notice, and
- (b) a statement of the grounds on which the appeal is made.

(2) The clerk shall, within two weeks of service of the notice of appeal, notify the appellant that the clerk has received it, and shall serve a copy of it on the relevant authority whose notice is the subject of the appeal.

#### Appeals against imposition of a penalty

**20.**—(1) An appeal against imposition of a penalty shall be initiated by serving on the clerk of the relevant valuation tribunal a notice in writing (a “notice of appeal”) accompanied by —

- (a) a copy of the penalty notice;

- (b) a statement of the grounds on which the appeal is made; and
- (c) the date of service of the notice of the imposition of a penalty.

(2) The clerk must, within two weeks of service of the notice of appeal, notify the appellant that the clerk has received it, and must serve a copy of it on the valuation officer whose notice is the subject of the appeal.

## PART 5

### Appeals: General

#### Interpretation

**21.** In this Part, “list” means a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005.

#### Jurisdiction: exceptions

**22.**—(1) Where the appellant is an employee or member of the relevant valuation tribunal, the appeal must not be dealt with by that tribunal but by such other valuation tribunal as may be appointed for that purpose by the National Assembly.

(2) Where it appears to the president of the relevant valuation tribunal that by reason of a conflict of interests, or the appearance of such a conflict, it would be inappropriate for an appeal to be dealt with by that tribunal, the National Assembly must, on being so notified by the president, appoint another tribunal to deal with that appeal.

(3) Where the appellant is a former member or employee of the valuation tribunal by which, in pursuance of any provision of this regulation, the appeal would fall to be dealt with, and the president determines that it shall not be dealt with by that tribunal, it shall be dealt with by such other tribunal as may be appointed for the purpose by the National Assembly.

#### Arrangements for appeals

**23.**—(1) It shall be the duty of the president of a valuation tribunal to secure that arrangements are made for appeals under —

- (a) regulation 8 or 13;
- (b) paragraph 4 of Schedule 4A(8) to the Act as it applies for the purposes of Part 3 of the Act (in these Regulations called an “appeal against a completion notice”); or
- (c) paragraph 5C of Schedule 9 to the Act (penalties),

to be determined in accordance with the following provisions of these Regulations.

(2) A valuation tribunal must not hear an appeal under regulation 13 until any appeal under regulation 8 in respect of the same proposal has been decided.

(3) Where two or more appeals relating to the same hereditament or hereditaments are referred under regulation 13, 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.

(4) Where an appeal under regulation 13 and an appeal under regulation 13 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993(9) relate to the same property —

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(8) Schedule 4A was inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).

(9) S.I. 1993/290.

- (a) the president of the valuation tribunal must secure that appeals are dealt with in such order as appears to the president best designed to secure the interests of justice;
  - (b) the listing officer shall be joined as a party to the appeal under regulation 13 of these Regulations; and
  - (c) the valuation officer shall be joined as a party to the appeal under regulation 13 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993.
- (5) The clerk must, as soon as is reasonably practicable, give written notice to any person who is made a party to an appeal under paragraph (4).

### **Withdrawal**

**24.—**(1) Without prejudice to regulation 8(2), an appeal may be withdrawn before the commencement of a hearing or of consideration of written representations, where notice to that effect is given to the clerk —

- (a) in the case of an appeal against a completion notice or an appeal under paragraph 5C of Schedule 9 to the Act (penalties), by the appellant in writing, and
- (b) in any other case, but subject to paragraph (2), by the valuation officer.

(2) Subject to paragraph (4), notice may not be given by a valuation officer under paragraph (1) unless every other party to the appeal has given written consent to the valuation officer for the withdrawal of the appeal.

(3) The clerk must notify the appellant when the clerk has received the notice of withdrawal under paragraph (1)(a), and shall serve a copy of the notice of receipt on all the other parties to the appeal.

(4) Where, after the referral of an appeal under regulation 13, the valuation officer alters the list in accordance with the proposal, or there is an agreement under regulation 12, the valuation officer or, as the case may be, the central valuation officer must notify the clerk accordingly, and the appeal shall be deemed to have been withdrawn.

(5) Where, following the initiation of an appeal against imposition of a penalty, the valuation officer decides to remit the penalty, the valuation officer shall notify the clerk accordingly, and the appeal shall be deemed to have been withdrawn.

### **Disposal by written representations**

**25.—**(1) An appeal under these Regulations may be disposed of on the basis of written representations if all the parties have given their agreement in writing.

(2) Where all the parties have given their agreement as mentioned in paragraph (1), the clerk must serve notice on the parties accordingly; and within four weeks of service of such a notice on them each party may serve on the clerk a notice stating —

- (a) that party's reasons or further reasons for the disagreement giving rise to the appeal; or
- (b) that that party does not intend to make further representations.

(3) A copy of any notice served in pursuance of paragraph (2) must be served by the clerk on the other party or parties to the appeal, and shall be accompanied by a statement of the effect of paragraphs (4) and (5).

(4) Any party on whom a notice is served under paragraph (3) may within four weeks of that service serve on the clerk a further notice stating their reply to the other party's statement, or that they do not intend to make further representations, as the case may be; and the clerk shall serve a copy of any such further notice on the other party or parties.

(5) After the expiry of four weeks beginning with the expiry of the period of four weeks mentioned in paragraph (4) the clerk must submit copies of —

- (a) any information transmitted to the clerk under these Regulations; and
- (b) any notice under paragraph (2) or (4),

to a valuation tribunal constituted as provided in regulation 30.

(6) The valuation tribunal to which an appeal is referred as provided in paragraph (5) may if it thinks fit —

- (a) require any party to furnish in writing further particulars of the grounds relied on and of any relevant facts or contentions; or
- (b) order that the appeal be disposed of on the basis of a hearing.

(7) Where any party has furnished any particulars in response to a request by a valuation tribunal under paragraph 6(a), the clerk must serve a copy of the particulars on every other party, and each of those other parties may, within four weeks of such service, serve on the clerk any further statement they wish to make in response.

### **Pre-hearing review**

**26.** With a view to clarifying the issues to be dealt with at a hearing, a chairman appointed under regulation 8 of the Valuation and Community Charge Tribunals Regulations 1989<sup>(10)</sup> —

- (a) may on the application of a party or of the chairman's own motion, not less than four weeks after giving notice to the parties to that effect, order a pre-hearing review to be held; and
- (b) must endeavour at the pre-hearing review to secure that all the parties make such admissions and agreements as ought reasonably to be made by them in relation to the proceedings.

### **Notice of hearing**

**27.**—(1) Where an appeal is to be disposed of on the basis of a hearing, the clerk must give the parties not less than four weeks' notice of the date, time and place appointed for the hearing.

(2) The clerk must advertise the date, time and place appointed for any hearing by causing a notice giving such information to be conspicuously displayed —

- (a) at the valuation tribunal's office,
- (b) outside an office of the relevant authority appointed by the authority for that purpose, or
- (c) in another place within that authority's area.

(3) The notice required by paragraph (2) must name a place where a list of the appeals to be heard may be inspected.

(4) Where the hearing of an appeal has been postponed, the clerk must take such steps as are practicable in the time available —

- (a) to notify the parties to the appeal of the postponement; and
- (b) to advertise the postponement.

### **Disqualification from participating**

**28.**—(1) A person shall be disqualified from participating as a member in the hearing or determination of, or acting as clerk or officer of a valuation tribunal in relation to —

- (a) an appeal against a completion notice if they are a member of the relevant authority concerned; or

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<sup>(10)</sup> S.I. 1989/439; relevant amendment was made by regulation 7(1) of S.I. 1995/563.

(b) an appeal under regulation 13 if they are a member of the special authority concerned.

(2) References in this regulation to the relevant authority concerned and to the special authority concerned are references to the relevant authority and the special authority in whose area is situated the hereditament which is the subject of the appeal.

### **Representation at the hearing**

**29.** Any party to an appeal which is to be decided at a hearing may appear in person (with assistance from any person they wish), by counsel or solicitor, or any other representative (other than a person who is a member, clerk or other employee of the valuation tribunal).

### **Conduct of the hearing**

**30.**—(1) Subject to paragraph (2), a valuation tribunal's functions of hearing or determining an appeal shall be discharged by three members of the tribunal, who shall include at least one chairman; and a chairman shall preside.

(2) Where all parties to an appeal who appear so agree, the appeal may be decided by two members of a valuation tribunal, and notwithstanding the absence of a chairman.

(3) The hearing shall take place in public, unless the valuation tribunal orders otherwise on the application of a party, and on being satisfied that the interests of that party would be prejudicially affected.

(4) If at a hearing of an appeal to which a valuation officer or a listing officer is a party every other party fails to appear, the valuation tribunal may dismiss the appeal.

(5) If, at a hearing of an appeal against a completion notice, the appellant does not appear, the valuation tribunal may dismiss the appeal.

(6) If, at the hearing of an appeal, any party does not appear, the valuation tribunal may hear and determine the appeal in his absence.

(7) The valuation tribunal may require any witness to give evidence by oath or affirmation, and shall have power for that purpose to administer an oath or affirmation in due form.

(8) Unless the valuation tribunal determines otherwise —

(a) at the hearing of an appeal under regulation 8, or arising from an alteration of a list by the valuation officer, the valuation officer shall begin the hearing; and

(b) at the hearing of an appeal against a completion notice, the relevant authority shall begin the hearing;

and in any other case parties at the hearing may be heard in such order as the tribunal may determine.

(9) Parties at the hearing may examine any witness before the valuation tribunal and call witnesses.

(10) A hearing may be adjourned to such time and place and on such terms (if any) as the valuation tribunal thinks fit; and reasonable notice of the time and place to which the hearing has been adjourned shall be given to every party.

(11) Subject to paragraph (12), a valuation tribunal may enter and inspect —

(a) the hereditament which is the subject of the appeal, and

(b) as far as is practicable, any comparable land or property to which the attention of the tribunal is drawn.

(12) When a valuation tribunal intends to enter any premises in accordance with paragraph (11) it shall give notice to the parties who shall be entitled to be represented at the inspection; and where the



tribunal deems it appropriate, such representation shall be limited to one person to represent those parties having the same interest in the appeal.

(13) Where at the hearing of an appeal under regulation 13 —

- (a) the valuation officer contends that the proposal was not validly made; and
- (b) the valuation tribunal does not uphold his contention,

the tribunal shall not immediately proceed to determine the appeal unless every party so agrees.

(14) Subject to any provision of this Part, the valuation tribunal —

- (a) shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it, and generally to the just handling of the proceedings;
- (b) shall, so far as appears to it appropriate, seek to avoid formality in its proceedings; and
- (c) shall not be bound by any enactment or rule of law relating to the admissibility of evidence before courts of law.

### **Evidence: general**

**31.**—(1) This regulation applies to information supplied in pursuance of regulation 42 or paragraph 5 of Schedule 9 to the Act or section 82 of the General Rate Act 1967.

(2) Subject to the provisions of this regulation, information to which this regulation applies shall in any relevant proceedings be admissible as evidence of any fact stated in it; and any record purporting to contain such information shall, unless the contrary is shown, be presumed —

- (a) to have been supplied by the person by whom it purports to have been supplied;
- (b) to have been supplied by that person in any capacity in which it purports to have been supplied.

(3) Information to which this regulation applies shall not be used in any relevant proceedings by a valuation officer unless —

- (a) not less than three weeks' notice has previously been given to every other party to the proceedings.
- (b) the notice specifies in relation to any information to be so used —
  - (i) the documents or other media in or on which that information is held;
  - (ii) the hereditament or hereditaments to which it relates, and the rateable value or rateable values in the list current at the date of the notice;
  - (iii) the name and address of the person providing the information; and
  - (iv) a summary of the terms of any lease (including the rent, dates of rental reviews and description of the repairing obligations); and
- (c) any person who has given not less than 24 hours' notice of his intention to do so, has been permitted by that officer 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 of, or of any extract from, any document containing such information.

(4) Subject to paragraph (5), any person to whom notice relating to any hereditament has been given under paragraph (3)(a) may before the hearing serve notice on the valuation officer specifying other hereditaments as being hereditaments which are comparable in character or otherwise relevant to that person's case, and requiring the valuation officer —

- (a) to permit him at any reasonable time specified in the notice to inspect and (if they so desire) to make a copy of any document containing information to which this regulation

applies which relates to those other hereditaments and is in the possession of the valuation officer; and

(b) to produce at the hearing or to submit to the valuation tribunal such documents as before the hearing they have informed the valuation officer that they require.

(5) The number of hereditaments specified in a notice under paragraph (4) shall not exceed four, or if greater, the number specified in the notice under paragraph (3)(a).

(6) 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 insofar 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.

(7) Where a notice has been given to the valuation officer under paragraph (4), and the valuation officer refuses or fails to comply with the notice, the person who gave the notice may apply to the valuation tribunal or, as the case may be, the arbitrator appointed to determine the appeal; and that tribunal or arbitrator may, if satisfied that it is reasonable to do so, direct the valuation officer to comply with the notice as respects all the hereditaments or such of them as the tribunal or arbitrator may determine.

(8) In this regulation “relevant proceedings” means any proceedings on or in consequence of an appeal, and any proceedings on or in consequence of a reference to arbitration under regulation 38.

(9) If any information required to be made available for inspection in accordance with this regulation 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.

### **Evidence of lists and other documents**

**32.** 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 valuation officer; and 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.

### **Decisions**

**33.—(1)** An appeal may be decided by a majority of the members participating; and where (pursuant to regulation 30(2)) it falls to be disposed of by two members and they are unable to agree, it shall be remitted by the clerk to be decided by a valuation tribunal consisting of three different members.

(2) Where an appeal is disposed of on the basis of a hearing, the decision may be reserved or given orally at the end of the hearing.

(3) Subject to paragraph (4), as soon as reasonably practicable after a decision has been made, it must —

(a) in the case of a decision given orally, be confirmed,

(b) in any other case, be communicated,

by notice in writing to the parties; and the notice must be accompanied by a statement of the reasons for the decision.

(4) Nothing in paragraph (3) shall require notice to be given to a party if it would be repetitive of any copy record sent to him in accordance with regulation 36.

(5) In the case of an appeal against a completion notice, the clerk must send notice of the decision to the valuation officer for the relevant authority.

## Orders

**34.**—(1) On or after deciding an appeal under regulation 13, the valuation tribunal may, subject to paragraph (4), require a valuation officer, in consequence of the decision, by order to alter a list in accordance with any provision made by or under the Act.

(2) On or after deciding an appeal against imposition of a penalty the valuation tribunal may order the valuation officer whose notice is the subject of the appeal to mitigate or remit the penalty.

(3) The valuation officer must comply with an order under paragraph (1) or (2) within the period of two weeks beginning on the day of its making.

(4) Subject to paragraph (5), where the decision is that a disputed rateable value should be an amount greater than —

- (a) the amount shown in the list at the date of the proposal; and
- (b) the amount contended for in the proposal,

the order shall require the list to be altered with effect from the day on which the decision is given.

(5) Paragraph (4) shall not apply where the order requires the list to be altered to show —

- (a) property previously rated as a single hereditament becoming liable to be rated in parts, or
- (b) property previously liable to be rated in parts becoming liable to be rated as a single hereditament, or
- (c) any part of a hereditament becoming part of a different hereditament.

(6) Where it appears that circumstances giving rise to an alteration ordered by a valuation tribunal have at the date of the decision ceased to exist, the order may require the alteration to be made in respect of such period as appears to the tribunal to be commensurate with the duration of those circumstances.

(7) An order under this regulation may require any matter ancillary to its subject-matter to be attended to.

## Review of decisions

**35.**—(1) Subject to paragraphs (2) and (3), a valuation tribunal constituted as provided in paragraph (4) shall have power, on written application by a party, to review or set aside by certificate under the hand of the presiding member —

- (a) any decision on any of the grounds mentioned in paragraph (5), and
- (b) the decision on an appeal against a completion notice on the additional grounds mentioned in paragraph (6).

(2) Paragraph (1) does not apply where an appeal against the decision in question has been determined by the Lands Tribunal.

(3) An application under paragraph (1) may be dismissed if it is not made within the period of four weeks beginning on the day on which notice is given (whether in accordance with regulation 33(3) or regulation 36(3)) of the decision in question.

(4) So far as is reasonably practicable, the valuation tribunal appointed to review a decision shall consist of the same members as constituted the tribunal which took the decision.

(5) The grounds referred to in paragraph (1)(a) are —

- (a) that the decision was wrongly made as a result of clerical error;

- (b) that a party did not appear and can show reasonable cause why he did not do so; and
- (c) that the decision is affected by a decision of, or on appeal from, the High Court or the Lands Tribunal in relation to an appeal in respect of the hereditament which was the subject of the valuation tribunal's decision.

(6) The grounds mentioned in paragraph (1)(b) are that new evidence, the existence of which could not have been ascertained by reasonably diligent inquiry or could not have been foreseen, has become available since the conclusion of the proceedings to which the decision relates.

(7) If a valuation tribunal sets aside a decision in pursuance of this regulation, it must revoke any order made in consequence of that decision and must order a re-hearing or redetermination before either the same or a different tribunal.

(8) The clerk must as soon as reasonably practicable notify the parties to the appeal in writing of —

- (a) a determination that the valuation tribunal will not undertake a review under paragraph (1);
- (b) the determination of the valuation tribunal, having undertaken a review under paragraph (1), that it will not set aside the decision concerned;
- (c) the issue of any certificate under paragraph (1); and
- (d) the revocation of any order under paragraph (7).

(9) Where in relation to a decision in respect of which an application under paragraph (1) is made, an appeal to the Lands Tribunal remains undetermined on the relevant day, the clerk must notify the Lands Tribunal as soon as reasonably practicable after the occurrence of the relevant event.

(10) In paragraph (9) —

“the relevant day” means the day on which, as the case may be, —

- (a) the application under paragraph (1) is made;
  - (b) an event referred to in any of sub-paragraphs (a) to (d) of paragraph (8) occurs; and
- “the relevant event”, in relation to a relevant day, means the event occurring on that day.

### **Records of decisions, etc**

**36.**—(1) It shall be the duty of the clerk to make arrangements for each decision, each order made under regulation 34 and the effect of each certificate and revocation under regulation 35 to be recorded.

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

(3) A copy, in documentary form, of the relevant entry in the record must, as soon as reasonably practicable after the entry has been made, be sent (by post, fax or electronic communication) to each party to the appeal to which the entry relates.

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

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

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

(7) The member who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the record, and a copy of the corrected entry shall be sent to the persons to whom a copy of the original entry was sent.

(8) The production in any proceedings in any court of law of a document purporting to be certified by the clerk to be a true copy of a record of that valuation tribunal shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

## **Appeals**

**37.**—(1) An appeal shall lie to the Lands Tribunal in respect of a decision or order which is given or made by a valuation tribunal on —

- (a) an appeal under regulation 8 or 13; or
- (b) an appeal against a completion notice.

(2) An appeal under paragraph (1) against a decision or order shall lie at the instance of any party —

- (a) who appeared at the hearing or, if the appeal was disposed of by written representations, who made such representations, or
- (b) whose application for the review of the decision on the ground set out in regulation 35(5)(b), has been determined by the valuation tribunal as mentioned in regulation 35(8)(b).

(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 that is the subject matter of the appeal.

(4) Where —

- (a) in relation to an application under paragraph (1) of regulation 35 (review of decisions) made within four weeks of the date on which notice was given of the decision which is the subject matter of the appeal, notice is given as mentioned in paragraph (8)(a) of that regulation, or
- (b) notice is given as mentioned in paragraph (8)(b) of that regulation,

the appeal may be dismissed if it is not made within four weeks of the service of the notice under that paragraph (8)(a) or (b).

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

(6) Valuation officers must act in accordance with any order made by the Lands Tribunal; and paragraph 9 of Schedule 11 to the Act shall have effect subject to this requirement.

## **Arbitration**

**38.**—(1) Where at any time before the beginning of a hearing or the consideration by a valuation tribunal of written representations it is so agreed in writing between the persons who, if a dispute were to be the subject of an appeal to the tribunal, would be the parties to the appeal, the question shall be referred to arbitration.

(2) In any arbitration in pursuance of this regulation the award may include any order which could have been made by a valuation tribunal in relation to the question; and paragraph 9 of Schedule 11 to the Act shall apply to such an order as it applies to an order recorded in pursuance of these Regulations.

## **Notification of further proceedings**

**39.**—(1) Where a valuation officer —

- (a) applies to a valuation tribunal under regulation 35 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 37 against a decision in consequence of which such an order was made, or against such an order, the valuation officer must, at the same time or as soon as reasonably practicable thereafter, notify the authority concerned of the application or appeal.

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

- (a) where the application or appeal relates to the alteration of a local non-domestic rating list, is the relevant authority for whose area the list was compiled; and
- (b) in any other case, is the National Assembly.

(3) Where a valuation officer appeals to the Lands Tribunal as mentioned in paragraph (1)(b), or receives notice of such an appeal instituted by another party the valuation officer must, at the same time or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal 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 Lands Tribunal under regulation 37, or receives notice of such an appeal instituted by another party it must, at the same time, or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal of the appeal.

## PART 6

### Miscellaneous and General

#### Service of notices

**40.**—(1) Without prejudice to section 233 of the Local Government Act 1972 and paragraph (2) and subject to paragraphs (3) and (4), any notice to be served may be served —

- (a) by delivering it —
  - (i) to the person on whom it is to be served; or
  - (ii) to any other person authorised by them to act as their agent for the purpose;
- (b) by sending it to that person or that agent by electronic communication;
- (c) by leaving it at or forwarding it by post to —
  - (i) the usual or last-known place of business of that person, or
  - (ii) in the case of a company, its registered office, or
  - (iii) the usual or last-known place of business or registered office of any other person authorised as mentioned in sub-paragraph (a)(ii);
- (d) by delivering it to some person on the premises to which it relates or, if there is no person on the premises to whom it can so be delivered, by fixing it to some conspicuous part of the premises;
- (e) without prejudice to the foregoing provisions of this regulation, where a hereditament to which the notice relates is a place of business of the person on whom it is to be served, by leaving it at, or forwarding it by post addressed to that person at, that place of business.

(2) Where any notice which is to be served on a person falls to be served by or on behalf of the Common Council or by an officer of the Common Council, it may be given or served in any manner in which it might be given or served under section 233 of the Local Government Act 1972 if the Common Council were a local authority within the meaning of that section.

(3) Any notice to be served on the owner or occupier of any premises may be addressed by the description of “owner” or “occupier” of the premises, without further name or description.

- (4) Any notice to be served on a valuation officer may be served by —
  - (a) addressing the notice to the valuation officer for the area in question, without further description; and
  - (b) delivering it or sending it to the valuation officer’s office by post or electronic communication.
- (5) In this regulation —
  - (a) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(11);
  - (b) any reference to a notice includes a reference to a proposal and any other document required or authorised to be served;
  - (c) any reference to such requirement or authorisation is to a requirement or authorisation under these Regulations; and
  - (d) any notice sent by the means described in paragraph (1)(b) shall be regarded as sent when it is received in a legible form.

#### **Retention of records**

**41.**—(1) Before altering an entry in a local non-domestic rating list or the central non-domestic rating list, the valuation officer or as the case may be, the central valuation officer shall ensure that a record (which need not be in documentary form) is made of the entry.

(2) A record made under paragraph (1) shall be retained until the expiry of six years beginning on the day on which the next list is compiled.

#### **Information to be supplied by relevant authorities**

**42.**—(1) Information of the description set out in paragraph (2) is hereby prescribed for the purposes of paragraph 6(1A) of Schedule 9 to the Act.

- (2) In relation to any property such as is mentioned in paragraph (3), the information is —
  - (a) the address of the property;
  - (b) the nature of the event by reason of which, in the opinion of the relevant authority, the local non-domestic rating list is required to be altered;
  - (c) the day from which, in the opinion of the relevant authority, such alteration should have effect; and
  - (d) if the property is shown in a local non-domestic rating list, any reference number ascribed to it in that list.

(3) The property referred to in paragraph (2), in relation to a relevant authority, is any non-domestic property in the authority’s area —

- (a) which is, in the authority’s opinion, property which is or may become liable to a rate; and
- (b) in relation to which —
  - (i) there is no entry in the local non-domestic rating list; or
  - (ii) in the authority’s opinion any entry in such a list requires to be altered.

(4) The information required by this regulation must be supplied as soon as is reasonably practicable after it comes to the attention of the relevant authority.

### Miscellaneous amendments

**43.**—(1) Regulation 38 of the Valuation and Community Charge Tribunals Regulations 1989(**12**) is amended as follows —

(a) in paragraph (2), after sub-paragraph (b) insert —

“(bb) regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005;”;

(b) in paragraph (3)(c), after the words “regulation 12 of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993” insert “regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005”.

(2) In regulation 2(1) of the Non-Domestic Rating (Payment of Interest) Regulations 1990(**13**) for the definition “the Alteration and Appeals Regulations” substitute —

““the Alteration and Appeals Regulations” means regulations made under section 55 of the Act;”.

(3) For regulation 3(7) of the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992(**14**) there is substituted —

“(7) In any other case —

(a) where the determination is with a view to making an alteration to a list compiled before 1 April 2005, the material day is the day on which the proposal for the alteration in respect of which a determination falls to be made is served on the valuation officer or, where there is no such proposal, the day on which the valuation officer alters the list; and

(b) where the determination is with a view to making an alteration to a list compiled on or after 1 April 2005, the material day is —

(i) where the alteration is made in pursuance of a proposal, the day on which the proposal was served on the valuation officer;

(ii) where the alteration is not made in pursuance of a proposal —

(aa) if the day on which the circumstances giving rise to the alteration is reasonably ascertainable, the day on which the circumstances giving rise to the alteration occurred;

(bb) if that day is not reasonably ascertainable, the day on which the valuation officer alters the list.”.

(4) For paragraph (2) of regulation 4C of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993(**15**) substitute —

“(2) A proposal on the ground set out in regulation 4A(1)(c) may only be made before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later.”.

(5) After paragraph (14) of regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993 add —

“(14A) Notwithstanding the foregoing provisions of this regulation, where an alteration falls to be made after 31 March 2006 it shall have retrospective effect only if it is made in pursuance of a proposal.”.

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(12) S.I. 1989/439: relevant amendments are made by regulation 22 of S.I. 1993/292 and regulation 2(b) of S.I. 1993/615.

(13) S.I. 1990/1904: relevant amendments are made by regulations 3 and 5 of S.I. 1991/2111; regulation 2(a) of S.I. 1992/1515; article 3 of and Schedule 2 to S.I. 1993/616; and regulation 2 of S.I. 1993/1495.

(14) S.I. 1992/556.

(15) S.I. 1993/291.



### Revocation, savings and transitional provision

**44.**—(1) Subject to paragraph (2), the following regulations are hereby revoked —

- (a) the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993;
- (b) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) Regulations 1994**(16)**;
- (c) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) Regulations 1995**(17)**;
- (d) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2000**(18)**;
- (e) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2001**(19)**; and
- (f) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2002**(20)**.

(2) The Regulations referred to in paragraph (1) shall continue to have effect on and after 1 April 2005 for the purposes of and for purposes connected with —

- (a) any alteration of a list compiled before 1 April 2005;
- (b) any provision made by regulations under section 58 of the Act (special provision for 1995 onwards) as to the chargeable amount as regards a hereditament for a relevant period, as defined in that section, ending before 1 April 2005; or
- (c) any appeal made under regulation 12 of the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 1999**(21)**

(3) In relation to any notice of appeal pursuant to regulation 19, which relates to a completion day of 1 April 2005 or later, but which is served on the clerk before the date of coming into force of these Regulations the notice of appeal shall be treated as served, and any procedural step taken in respect of the appeal shall be treated as taken, under these Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(22)**.

15 March 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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**(16)** S.I. 1994/1809.

**(17)** S.I. 1995/609.

**(18)** S.I. 2000/792 (W.29).

**(19)** S.I. 2001/1203 (W.64).

**(20)** S.I. 2002/1735 (W.165).

**(21)** S.I. 1999/3454 (W.51).

**(22)** 1998 c. 38.

SCHEDULE

Regulation 36(2)

CONTENTS OF RECORDS

- The appellant's name and address
- The matter appealed against
- The date of the hearing or determination
- The names of the parties who appeared, if any
- The decision of the valuation tribunal and its date
- The reasons for the decision
- Any order made in consequence of the decision
- The date of any such order
- Any certificate setting aside the decision
- Any revocation under regulation 35(7).

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**EXPLANATORY NOTE**

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

These Regulations, which apply to Wales only, revoke and replace the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993 and the instruments which amended them —

- (a) the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993;
- (b) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) Regulations 1994;
- (c) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) Regulations 1995;
- (d) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2000;
- (e) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2001; and
- (f) the Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) (Wales) Regulations 2002.

The Regulations concern the alteration of local and central non-domestic rating lists (which are compiled under the Local Government Finance Act 1988). They cover the alteration of non-domestic rating lists by valuation officers, proposals for such alterations from other persons and appeals to valuation tribunal where there is disagreement about a proposal between the valuation officer and another person.

Regulation 4 sets out the circumstances in which proposals to alter the list may be made. Regulation 5 specifies the time limits within which such proposals are to be made. Regulation 6 sets out the content of proposals. Regulations 7 to 13 provide the procedures to be followed by valuation officers in relation to such proposals. Regulation 14 provides for the determination of the effective date of any alteration made. Regulation 15 makes special provision in relation to advertising hoardings.

Regulation 16 requires the effective date of any alteration to be shown in the list and regulation 17 makes provision for the notification of any alteration.

Regulation 18 applies Part 2, with modifications, to hereditaments shown on the central non-domestic rating lists.

Regulation 19 sets out the procedure for appeals against building completion notices. Regulation 20 sets out the procedure for appeals against the imposition of a penalty notice.

Regulations 21 to 39 prescribe the procedure for appeals.

The Regulations also make provision for the service of notices (regulation 40), the retention of records (regulation 41), information to be supplied by authorities (regulation 42), certain consequential amendments (regulation 43) and revocation, savings and transitional provision (regulation 44).