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STATUTORY INSTRUMENTS

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**2009 No. 2268**

**The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009**

**PART 1**

**GENERAL**

**Citation, application and commencement**

**1.** These Regulations, which apply in relation to England only, may be cited as the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 and shall come into force on 1st October 2009.

**Interpretation: general**

**2.—(1)** In these Regulations—

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

“appeal” means an appeal under—

(a) regulation 8 or 13;

(b) paragraph 4 of Schedule 4A to the Act<sup>(1)</sup> (non-domestic rating: new buildings (completion days)) as it applies for the purposes of Part 3 of the Act (non-domestic rating) (in these Regulations called an “appeal against a completion notice”); or

(c) paragraph 5C of Schedule 9 to the Act<sup>(2)</sup> (in these Regulations called an “appeal against imposition of a penalty”);

“authority” means a billing authority;

“central list” means the central non-domestic rating list;

“company”, “holding company” and “subsidiary” have the meanings given by the Companies Act 2006<sup>(3)</sup>;

“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, which states the completion day as 1st October 2009 or later;

“IP” (interested person)—

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(1) Schedule 4A was inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c.42) and amended by paragraph 83 of Schedule 13 to the Local Government Finance Act 1992 (c.14) and paragraphs 2 and 4 of Schedule 16 to the Local Government and Public Involvement in Health Act 2007 (c.28).

(2) Paragraph 5C was inserted by section 72(4) of the Local Government Act 2003 (c.26) and amended by paragraphs 2 and 5 of Schedule 16 to the Local Government and Public Involvement in Health Act 2007.

(3) 2006 c.46. For the definition of “company” see section 1. For the definitions of “subsidiary” and “holding company” see section 1159 and Schedule 6.

- (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), means the Crown Estate Commissioners;
- (b) in relation to any other hereditament, means—
  - (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 him (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 the occupier or a person described in (ii);

“local list” means a local non-domestic rating list;

“proposal” means a proposal for the alteration of a local list or the central 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 not occupied, the owner;

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

“valuation tribunal” means a valuation tribunal established in England before 1st October 2009 under paragraph 1 of Schedule 11 to the Act;

“VO” means valuation officer(5); and

“VTE” means the Valuation Tribunal for England.

- (2) A person shall be treated as having a qualifying connection with another—
  - (a) where both persons are companies, and—
    - (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 regulation 8 or an appeal against imposition of a penalty, the VO or, as the case may be, the CVO;
  - (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 VO before the hearing, or before determination on the basis of written representations, that the person wishes to be a party to the appeal;
  - (c) in relation to an appeal against a completion notice, the relevant authority.

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(4) 1961 c.55.

(5) For the meaning of “valuation officer” see section 67 of the Local Government Finance Act 1988.

## PART 2

### ALTERATION OF LOCAL LISTS

#### Interpretation of Part 2

**3.** 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 list compiled on or after 1st 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;

“the Procedure Regulations” means the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(6); and

“VO” in relation to a list, means the VO 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 are—

- (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) (England) Regulations 2000(7) 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 VO 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—
  - (i) the VTE,
  - (ii) a valuation tribunal, or
  - (iii) the Lands Tribunal, the Upper Tribunal or a court determining an appeal or application for review from the VTE, a valuation tribunal, the Lands Tribunal or the Upper 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;

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(6) S.I. 2009/2269.

(7) S.I. 2000/540, to which there are amendments not relevant to these Regulations.

- (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 proposal may be made—
- (a) by an IP who has reason to believe that one of the grounds set out in paragraph (1) exists;
  - (b) by a relevant authority which has reason to believe that a ground set out in any of sub-paragraphs (b), (e) and (g) to (j) of paragraph (1) exists; and
  - (c) by a person, other than an IP, who—
    - (i) has reason to believe that a ground set out in paragraph (1)(c), (d) or (f) exists, and
    - (ii) was an IP 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 ground relied on, the material day and the effective date are the same;
  - (b) by an IP, where—
    - (i) that person (or a person having a qualifying connection with that person), acting in the same capacity, 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 IP) and has been considered and determined by a valuation tribunal, the VTE, the Lands Tribunal or the Upper 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 VTE, the Lands Tribunal, the Upper Tribunal or a court determining an appeal or an application for a review in relation to the hereditament concerned.
- (4) In paragraph (3)—
- “effective date” means the day from which the alteration, if made, would have effect in pursuance of this Part;
- “event” means the compilation of the list, a material change of circumstances or an alteration of the list by the VO; and
- “material day”, in relation to a hereditament, means the day determined as regards that hereditament in accordance with rules prescribed by regulations under paragraph 2(6A) of Schedule 6 to the Act(8).

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(8) Sub-paragraph (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 Part 1 of Schedule 10 to the Local Government Finance Act 1992 (c.14).

### **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 1st 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 be made no later than six months after the day on which the next list is compiled.

### **Proposals: general**

6.—(1) A proposal shall be made by notice sent to the VO which shall—

- (a) state the name and address of the proposer;
  - (b) state whether the proposer is, in respect of the property—
    - (i) the IP and, if so, the capacity in which the IP makes the proposal;
    - (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;
    - (ii) 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;
    - (iii) 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;
    - (iv) 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;
    - (v) in the case of a proposal made on the ground set out in regulation 4(1)(e), the information specified in paragraph (2);
    - (vi) 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
    - (vii) in the case of a proposal made on one or more of the grounds set out in regulation 4(1)(a) to (g) and (i) to (l), in respect of a hereditament occupied under a lease, easement or licence to occupy, other than a proposal made by a relevant authority or a person described in regulation 4(2)(c), the information specified in paragraph (3).
- (2) The information required by paragraph (1)(e)(v) 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)(vii) is—
  - (a) where the proposer is the occupier, the amount payable each year by the proposer, as at the date of the proposal, in respect of the lease, easement or licence to occupy; or
  - (b) in any other case, the amount payable each year to the proposer, 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 ground 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 ground 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.

### **VO's acknowledgement of proposals**

7.—(1) Subject to paragraph (2), within four weeks of receiving a proposal, the VO shall send an acknowledgement of its receipt to the proposer.

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

(3) An acknowledgement 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.

### **Disputes as to validity of proposals**

8.—(1) Subject to paragraphs (2) and (3), where the VO is of the opinion that a proposal has not been validly made, the VO may, at any time after receiving the proposal, serve notice (an “invalidity notice”) on the proposer that the VO is of that opinion and stating—

- (a) the reasons for that opinion, and
- (b) the effect of paragraphs (6) to (10).

(2) The VO may not serve an invalidity notice after an agreement has been reached under regulation 4 (arbitration) of the Procedure Regulations or the VTE has given notice under regulation 31 (notice of hearing) of those Regulations.

(3) The VO may not serve an invalidity notice more than four weeks after the proposal to which it relates was served other than with the consent of the proposer, given in writing.

(4) Where an invalidity notice is served—

- (a) if it is served more than four weeks after the proposal to which it relates was served on the VO but before a disagreement as to the proposed alteration has been referred to the VTE under regulation 13—
  - (i) the invalidity notice shall state the effect of paragraph (12); and
  - (ii) the VO shall serve a copy of the invalidity notice on—
    - (aa) any person who has been served with a copy of the proposal to which the invalidity notice relates; and
    - (bb) any IP who has served notice under regulation 11(3)(a); or

- (b) if a disagreement as to the proposed alteration has been referred to the VTE under regulation 13—
  - (i) the VO shall serve a copy of the invalidity notice on—
    - (aa) any person who has been served with a copy of the proposal to which the invalidity notice relates; and
    - (bb) any IP who has served notice under regulation 11(3)(a); and
  - (ii) the VO shall inform the VTE that the invalidity notice has been served and of any withdrawal of that notice under paragraph (5).
- (5) The VO may at any time withdraw an invalidity notice by serving notice in writing on the proposer; and any appeal against the invalidity notice shall then be treated as having been withdrawn.
- (6) Unless an invalidity notice has been withdrawn, the proposer may, within four weeks of receiving it—
  - (a) subject to paragraph (7), make a further proposal in relation to the same property; or
  - (b) appeal against the notice to the VTE.
- (7) For the purposes of paragraph (6)(a)—
  - (a) the time limit applicable under regulation 5 may be ignored; but
  - (b) a further proposal may not be made where the proposal to which the invalidity notice relates was itself made—
    - (i) under paragraph (6)(a); or
    - (ii) after the expiry of the time limit applicable under regulation 5.
- (8) Where a further proposal is made under paragraph (6)(a), the proposal in respect of which the invalidity notice was served shall be treated as withdrawn.
- (9) An appeal against an invalidity notice shall be made by the proposer sending a notice of disagreement to the VO.
- (10) Unless the VO withdraws the invalidity notice within four weeks of receiving the notice of disagreement, once that period has ended the VO shall inform the VTE 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 VO's opinion that the proposal has not been validly made.
- (11) Where information relating to an invalidity notice has been supplied in accordance with paragraph (10) and the notice is withdrawn, the VO shall, as soon as practicable, inform the VTE of the withdrawal.
- (12) Subject to paragraph (14), 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.
- (13) Where it is finally decided that the proposal was validly made, those regulations shall have effect as if the proposal had been served on the VO on the date of that final decision.
- (14) Where an invalidity notice is served more than four weeks after the service of the proposal to which it relates, any period of time referred to in regulation 9 or any of regulations 11 to 13 which has started to run—
  - (a) shall cease to run with effect from the date of service of the notice until it is finally decided that the proposal was validly made; and
  - (b) where it is finally decided that the proposal was validly made, shall start to run again with effect from the date of that final decision as if there had been no interruption.
- (15) For the purposes of paragraphs (12) to (14), 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 VTE having determined the appeal against the invalidity notice) the period within which an appeal may be made to the Upper Tribunal expires without such an appeal being made; or
  - (ii) the Upper Tribunal gives a decision on appeal.

(16) Nothing done under this regulation shall prevent any party to an appeal under regulation 13 from contending that the proposal to which that appeal relates was not validly made.

### **Procedure after making of proposals**

9.—(1) Within six weeks of receipt of a proposal, the VO shall send a copy of it to each of the following, unless that person is 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 VO 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 sent to a ratepayer shall be accompanied by a statement of the effect of regulations 10 to 13.

### **Proposals agreed by VO**

10. Where the VO is of the opinion that a proposal is well-founded, he shall 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 sent to the VO.

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

(3) Where—

- (a) within two months from the day on which the VO receives a proposal, an IP notifies the VO in writing that the IP wishes to be a party to the proceedings in respect of that proposal (an “IP’s notice”) and
- (b) after receiving an IP’s notice, the proposal is withdrawn,

the VO shall give notice of the withdrawal to the IP.

(4) Where, within six weeks from the day on which the IP receives the VO’s notice under paragraph (3), the IP notifies the VO in writing that the IP is aggrieved by the withdrawal of the proposal—

- (a) the notification shall, if the IP 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 VO received the notification; 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 a proposal, all the persons mentioned in paragraph (2) agree on an alteration of the list in terms that comply with the requirements of this Part but differ from those contained in the proposal, and that agreement is signified in writing—

- (a) subject to paragraph (4), the VO shall, not later than two weeks after 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 VO;
- (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 IP or relevant authority who—
  - (i) would at the date of the proposal have been competent to make the proposal in question, and
  - (ii) not later than two months after the day on which the proposal was received by the VO, informs the VO in writing that the IP or the authority (as the case may be) wishes to be a party to the proceedings in respect of the proposal.

(3) The persons referred to in paragraph (1) do not include—

- (a) the occupier of the hereditament at the date of the proposal who 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), provided that the VO has taken all reasonable steps to ascertain that former occupier's whereabouts, and they have not been ascertained, or
- (b) any IP referred to in paragraph (2)(e) who cannot be contacted at the address supplied to the VO.

(4) Where—

- (a) the period of two weeks mentioned in paragraph (1)(a) would expire before the period of two months mentioned in paragraph (2)(e)(ii), and
- (b) the VO has not received a request under paragraph (2)(e)(ii) within that two-month period,

the VO shall make the alteration required by paragraph (1)(a) as soon as practicable after that period ends.

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

**13.**—(1) Where—

- (a) the VO is of the opinion that a proposal is not well-founded, and
- (b) the proposal is not withdrawn, and
- (c) there is no agreement under regulation 12,

the VO shall refer the disagreement to the VTE as an appeal by the proposer against the VO's refusal to alter the list.

(2) A referral under paragraph (1) shall be made—

- (a) within the period of three months beginning on the day on which the proposal was received by the VO; and

- (b) by the VO sending to the VTE a statement of—
- (i) the entry in the list (if any) which is proposed to be altered;
  - (ii) the date of service of the proposal;
  - (iii) the names and addresses (where known to the VO) of all persons whose agreement is required by regulation 12; and
  - (iv) the grounds on which the proposal was made.

(3) The VO shall send to the VTE the name and address of any other person who has informed the VO that he wishes to be a party to the appeal.

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

14.—(1) This regulation has effect in relation to alterations made on or after 1st October 2009 to a list compiled on or after 1st 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—

- (a) is substituted by a different notice under paragraph 1(3) of that Schedule;
- (b) is agreed under paragraph 3 of that Schedule; or
- (c) is 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 to give effect to a proposal, the alteration shall have effect from the day on which the proposal was served on the VO; and
- (b) in any other case, the alteration shall have effect from the day on which it is made.

(6) For the purposes of paragraph (5)(a), a proposal which is made under regulation 8(6)(a) shall be deemed to have been served on the VO on the day on which the proposal to which the invalidity notice relates was served.

(7) 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 a matter mentioned in any of paragraphs (2) to (5),

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.

(8) Where an alteration needs 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 to give effect to a proposal.

#### **Advertising rights**

15.—(1) Regulation 14 shall have effect, where the circumstances giving rise to the alteration are the coming into existence of an advertising hereditament, as if those circumstances occurred 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 exercise 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 as a material change of circumstances for the purposes of a proposal made on the ground specified in regulation 4(1)(b) (rateable value inaccurate by reason of material change of circumstances occurring on or after the day on which the list was compiled).

(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.

### **Notification of alteration**

**17.—**(1) Within four weeks of altering a list a VO shall notify the relevant authority of the effect of the alteration; and the relevant authority shall as soon as reasonably practicable alter the copy of the list deposited at its principal office.

(2) Subject to paragraph (3), the VO shall notify the ratepayer and any proposer, as defined in paragraph (5), of—

(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 made solely to correct a clerical error, or to reflect—

(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 made to reflect—

(a) a decision of the VO 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, the VTE, the Lands Tribunal, the Upper Tribunal or a court; 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 VTE under regulation 13(1) and whose appeal has either—

(a) not been determined by the VTE; or

(b) has been so determined and either—

(i) an appeal has been made to the Lands Tribunal or the Upper Tribunal and has not been determined; or

(ii) the time for making an appeal to the Upper Tribunal has not yet expired.

## PART 3

### ALTERATION OF CENTRAL 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 list compiled on or after 1st October 2009, the regulations mentioned in paragraph (2) shall apply, as modified by paragraphs (3) and (4), as if—

- (a) any reference to a local list were a reference to the central list;
- (b) any reference to a VO were a reference to the CVO; 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 paragraphs (1)(k) and (l) and (3),
- (b) regulations 5 to 8,
- (c) regulation 9, except paragraph (1)(b),
- (d) regulations 10 to 13,
- (e) regulation 14, except paragraphs (3) and (4) and the reference to those paragraphs in paragraphs (2) and (6),
- (f) regulation 16, and
- (g) regulation 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 of the Act.

(4) Regulation 17(1) shall apply as if the reference to the relevant authority and its principal office were a reference to the Secretary of State and the Secretary of State’s principal office.

(5) At the same time as the CVO serves a copy of a proposal on the ratepayer under regulation 9(1) in relation to a relevant hereditament the CVO shall serve such a copy on the Secretary of State.

## PART 4

### PROVISIONS RELATING TO PARTICULAR APPEALS AND APPLICATIONS

#### Appeals against completion notices or imposition of penalties

**19.**—(1) A person who wishes to appeal against a completion notice or the imposition of a penalty must send or deliver a notice of appeal to the VTE so that it is received within 28 days after the date on which the appellant received the completion notice or notice that the penalty had been imposed.

(2) The notice of appeal must be accompanied by—

- (a) a copy of the completion notice or the penalty notice,
- (b) a statement of the grounds on which the appeal is made, and
- (c) where the appeal is against the imposition of a penalty, the date on which the person received notice of the imposition of the penalty.

(3) If the person provides the notice of appeal to the VTE later than the time required by paragraph (1) or by an extension of time allowed under regulation 6(3)(a) of the Valuation Tribunal

for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009<sup>(9)</sup>, the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time.

### **Appeals relating to proposals to alter 1995 lists**

**20.** The Procedure Regulations shall apply for the purposes of an appeal under regulation 8 or 13 in connection with a proposal made by virtue of paragraph (2) of regulation 17A of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2005<sup>(10)</sup>, where the appeal remains undetermined immediately before 1st October 2009, as if any reference to a list included a reference to a local list compiled on 1st April 1995.

### **Notification of further proceedings**

**21.**—(1) Where a VO—

- (a) applies to the VTE for the review of a decision in consequence of which an order requiring the alteration of a list was made; or
- (b) appeals to the Upper Tribunal against a decision in consequence of which such an order was made, or against such an order,

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

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

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

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

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

## **PART 5**

### **MISCELLANEOUS AND GENERAL**

#### **Notices**

**22.**—(1) Without prejudice to section 233 of the Local Government Act 1972<sup>(11)</sup> (service of notice by local authorities) and paragraph (2), and subject to paragraphs (3) and (4), any notice required by any provision of these Regulations to be given or served may be given or served—

(a) by delivering it—

- (i) to the person (“X”) to whom it is to be given or on whom it is to be served; or
- (ii) to any other person authorised by X to act as X’s agent for the purpose;

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<sup>(9)</sup> S.I. 2009/2269.

<sup>(10)</sup> S.I. 2005/659. Regulation 17A was inserted by S.I. 2006/2312.

<sup>(11)</sup> 1972 c.70, to which there are amendments not relevant to these Regulations.

- (b) by sending it to X or X’s agent by electronic communication;
  - (c) by leaving it at or forwarding it by post to—
    - (i) X’s usual or last-known place of business, 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 given to or served on a person is to be given or 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 “owner” or “occupier” of the premises, without further name or description.
- (4) Any notice to be given to or served on a VO may be given or served by—
- (a) addressing the notice to the VO for the area in question, without further description; and
  - (b) delivering it or sending it to the VO’s office by post or electronic communication.
- (5) In this regulation—
- (a) “electronic communication” as the meaning given by section 15(1) of the Electronic Communications Act 2000<sup>(12)</sup>;
  - (b) any reference to a notice includes a reference to a proposal and any other document required or authorised to be given or 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 by VOs**

**23.**—(1) Before altering an entry in a local list or the central list, the VO or, as the case may be, the CVO shall ensure that a record (which need not be in documentary form) is made of the entry.

(2) Subject to paragraph (3), 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.

(3) A record in relation to a local list compiled on 1st April 1995 shall be retained until 31st March 2016.

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

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

(2) In relation to any property of a description mentioned in paragraph (3), the information is—

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(12) 2000 c.7.

- (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 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 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, in the authority's opinion, is property which is or may become liable to a rate; and
  - (b) in relation to which—
    - (i) there is no entry in the local 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.

### **Revocation, savings and transitional provision**

**25.**—(1) Subject to paragraphs (2) and (3), the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2005(**13**) and the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2006 are revoked.

(2) Regulation 44 of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2005 (revocation, savings and transitional provision) shall continue to have effect but, in so far as it relates to the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993(**14**), shall have effect as mentioned in paragraph (4) below.

(3) Anything done under the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2005 before 1st October 2009 shall be treated, so far as is required for continuing its effect on and after that date, as if it had been done under the equivalent provision of these Regulations or the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

(4) Subject to paragraph (5), the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993(**15**) are revoked.

(5) The Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993 shall continue to have effect for the purposes of, and for purposes connected with—

- (a) any alteration of a list compiled before 1st April 2005;
- (b) any provision made by regulations under section 58 of the 1988 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 1st April 2005; or
- (c) any appeal made under regulation 19 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004(**16**) after 31st March 1993 and before 1st April 2005

and shall be treated for those purposes as if made under Schedule 11 as amended by the Local Government and Public Involvement in Health Act 2007, subject to the modifications set out in the Schedule to these Regulations.

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(13) [S.I. 2005/659](#), amended by [S.I. 2006/2312](#).

(14) [S.I. 1993/291](#), which were revoked, with savings, by regulation 44(1) of [S.I. 2005/659](#).

(15) [S.I. 1993/291](#), which were revoked, with savings, by regulation 44(1) of [S.I. 2005/659](#).

(16) [S.I. 2004/3279](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

25th August 2009

*Bill McKenzie*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government