

EXPLANATORY MEMORANDUM TO
THE NON-DOMESTIC RATING (ALTERATION OF LISTS, APPEALS AND
PROCEDURE) (ENGLAND) (AMENDMENT) REGULATIONS 2018

2018 No. 911

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2268) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (S.I. 2009/2269). The amendments provide for an additional category of person who may make a proposal for the alteration of business rates lists. They also amend provisions on who may be a party to the proceedings in respect of a proposal and any subsequent appeal.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The legislative framework for business rates appeals is set out in Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”). Section 55 of the 1988 Act contains powers for the Secretary of State to make regulations in relation to proposals for the alteration of business rates lists (including who may make a proposal, the circumstances in which a proposal may be made, the time limit for making a proposal, procedure for making a proposal) and to provide the steps which must be taken before the ratepayer can make a proposal. The regulations may also make provision about the

grounds on which an appeal may be made to the Valuation Tribunal for England and provide for the imposition of fees for an appeal and for refunds of those fees.

- 6.2 The secondary legislation that deals with the existing appeals process is the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

7. Policy background

What is being done and why

- 7.1 The rateable value of a non-domestic property by which a ratepayer's liability for non-domestic rates is determined is reassessed at a revaluation by the Valuation Office Agency. Between revaluations, changes to rateable values are generally only made on the basis of physical changes to the property or its locality.
- 7.2 In cases where a ratepayer disagrees with the rateable value shown in a non-domestic rating list, they may challenge the accuracy of the rateable value by making a proposal to the Valuation Officer ("VO") for an alteration to the list. If there is a disagreement between the ratepayer and the VO as to the proposed alteration, the ratepayer can appeal to the VTE.
- 7.3 In April 2017 the Government implemented major reforms to the system through which ratepayers may challenge the rateable value of their property (see www.legislation.gov.uk/ukxi/2017/155/memorandum/contents for further detail). The reforms introduced a new three-stage process: Check, Challenge, Appeal. Under the new system, the first stage of the process is for the ratepayer and VO to check and agree the factual information regarding the property (the "check" stage) – with the ratepayer required to provide confirmation of the information held by the VOA. The ratepayer may then make a proposal (or "challenge") where they disagree with the VO's valuation. If, following a period of discussion and exchange of evidence, the VO and ratepayer do not reach agreement on the valuation, the ratepayer will then have right to make an appeal to the VTE.
- 7.4 This statutory instrument will ensure that ratepayers who leave a property before their check is complete, will still have the right to subsequently make a proposal and (if necessary) an appeal.
- 7.5 Under the system in place before April 2017, the first stage of the process was a proposal from the ratepayer for an alteration to the ratings list. Where a ratepayer moved out of a property after having made a proposal, they would still be able to take forward that proposal and, if successful, they would then receive any backdated refund for the period during which they were in occupation.
- 7.6 However, under the system in place from April 2017 ratepayers must complete the check stage before being able to make a proposal. If the ratepayer moves out of the property before the check is complete, they would not be able to then make a proposal and progress their case.
- 7.7 To maintain the right of former occupiers to progress their case, this instrument provides that a proposal may also be made by a ratepayer who has left a property before their check has been completed. This will help to ensure that the appeal rights of ratepayers who leave their property are not curtailed where, for example, they were

not able to lodge a formal proposal before leaving the property due to the ongoing check process.

- 7.8 This instrument also amends existing provisions on who may become party to proceedings in respect of a proposal. Currently this is limited to those who are ‘Interested Persons’ (IPs) at the time of the proposal. This instrument provides that a person who is an IP when a Check confirmation is made (but then ceases to be an IP after that day) is still able to be party to a proposal, given their potential interest in the outcome of any proposal.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 or the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

10. Consultation outcome

- 10.1 The wider reforms to the system were subject to extensive consultation, with formal consultations on the policy framework and draft regulations. No separate consultation has been carried on this specific measure, given it is a minor change that will benefit ratepayers by ensuring their right to progress an appeal after leaving a property is maintained under the system.

11. Guidance

- 11.1 The Department does not intend to issue formal guidance on the business rates appeals process, or on this specific measure.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies will be positive as these regulations will maintain the previous right to progress a proposal made in relation to a property that they no longer occupy. The public sector will benefit in the same way.
- 12.2 An Impact Assessment has not been prepared for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation.

13. Regulating small business

- 13.1 The legislation will apply equally to small businesses that occupy non-domestic properties.

14. Monitoring & review

- 14.1 The impact of the changes will be monitored. The Government intends to review the implementation of the overall package of reforms under Check, Challenge and Appeal in 2019.

15. Contact

- 15.1 Alex Lim at the Ministry of Housing, Communities and Local Government
Telephone: 03030 444 3115 or email: alex.lim@communities.gsi.gov.uk can answer any queries regarding the instrument.
- 15.2 Chris Megainey at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Bourne of Aberystwyth at the Ministry of Housing Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.