

2018 No. 911

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Alteration of Lists, Appeals and Procedure) (England) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>30th July 2018</i>
<i>Laid before Parliament</i>		<i>1st August 2018</i>
<i>Coming into force</i>	- -	<i>24th August 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 55(2) to (4A) and 143(1) and (2) of, and paragraphs A19 and 8 of Schedule 11 to, the Local Government Finance Act 1988(a):

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Alteration of Lists, Appeals and Procedure) (England) (Amendment) Regulations 2018 and come into force on 24th August 2018.

Amendment of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009

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

(2) In regulation 2 (interpretation: general)—

(a) in paragraph (3)(b)(ii) for “since the proposal was served on the VO” substitute “since the date mentioned in paragraph (3A)”;

(b) after paragraph (3) insert—

“(3A) The date referred to in paragraph (3)(b)(ii) is the date on which the VO received the confirmation for the check to which the proposal which is the subject of the appeal relates(c).”.

(3) In regulation 4 (circumstances in which proposals may be made)—

(a) after paragraph (2)(a) insert—

(a) 1988 c.41. Relevant amendments were made to section 55 by paragraphs 30 and 79 of Schedule 5 to the Local Government and Housing Act 1989 (c.42) and section 32 of the Enterprise Act 2016 (c.12). Paragraph A19 of Schedule 11 was inserted by paragraphs 1 and 2 of Schedule 15 to the Local Government and Public Involvement in Health Act 2007 (c.28). Paragraph 8 of Schedule 11 was amended by paragraph 86 of Schedule 13 to the Local Government Finance Act 1992 (c.14), section 1 of the Non-Domestic Rating (Information) Act 1996 (c.13), paragraphs 1, 10 and 11 of Schedule 15 to the Local Government and Public Involvement in Health Act 2007 and section 7 of the Local Government Finance Act 2012 (c.17).

(b) S.I. 2009/2268, amended by S.I. 2017/155; there are other amending instruments but none is relevant.

(c) See regulation 2(1) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, S.I. 2009/2268, for the meaning of “VO”; see regulation 4D(2) of those Regulations as to the date on which the VO received a confirmation.

- “(aa) by a person, other than an IP, who in relation to a hereditament—
 - (i) has reason to believe that one of the grounds set out in paragraph (1) exists,
 - (ii) has reason to believe that the ground relates to any time during which the person was an IP in relation to that hereditament,
 - (iii) as an IP made a request under regulation 4B(2), and
 - (iv) (whether or not as an IP) complied with regulation 4C;”;
- (b) in paragraph (3)(b)—
 - (i) in the opening words omit “an IP, where”;
 - (ii) in paragraph (i) at the beginning insert “an IP, where”;
 - (iii) after paragraph (i) insert—
 - “(ia) a person mentioned in paragraph (2)(aa) or (c), where that person (or a person having a qualifying connection with that person), acting in that capacity or acting as an IP, 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;”;
 - (iv) in paragraph (ii) at the beginning insert “an IP or a person mentioned in paragraph (2)(aa) or (c), where”.
- (4) In regulation 4B(1) (request for information held by the VO) for “regulation 4(2)” substitute “regulation 4(2)(a) or (c)”.
- (5) In regulation 6(6) (proposals: general)—
 - (a) in the words before sub-paragraph (a) after “licence to occupy” insert “(or, where sub-paragraph (c) applies, was so occupied)”;
 - (b) after sub-paragraph (a) omit “or”;
 - (c) in sub-paragraph (b) after “the occupier” insert “but is an IP in relation to that hereditament”;
 - (d) after sub-paragraph (b) insert—
 - “or
 - (c) where the proposer is not an IP in relation to that hereditament, the amount that was payable each year by or to the proposer (as the case may be), as at the last day on which the proposer was such an IP, in respect of the lease, easement or licence to occupy, the date on which that amount first became payable and details of any rent-free periods.”.
- (6) In regulation 11 (withdrawal of proposals)—
 - (a) for paragraphs (2) and (3) substitute—
 - “(2) Where—
 - (a) the proposer was a ratepayer in respect of the hereditament at the date of the proposal but is no longer, or
 - (b) the proposal was made by a person mentioned in regulation 4(2)(aa),
 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—
 - (i) an IP, or
 - (ii) a person (“P”) who was an IP on the date on which the VO received the confirmation for the check to which the proposal relates,
 notifies the VO in writing that the IP or P wishes to be a party to the proceedings in respect of that proposal, and

- (b) after receiving the notification referred to in sub-paragraph (a), the proposal is withdrawn,
the VO must give notice of the withdrawal to the IP or to P.”;
- (b) in paragraph (4) after “the IP” in each place it occurs insert “or P”;
- (c) after paragraph (4) insert—
“(5) For the purposes of considering under paragraph (4)(a) whether an IP or P would have been competent at the date of a proposal to make that proposal, the requirements in regulations 4A(1) and 4B(2) are disregarded.”.
- (7) In regulation 12 (agreed alterations following proposals)—
 - (a) after paragraph (2)(e) insert—
“(f) any person (“P”) who—
 - (i) was an IP on the date on which the VO received the confirmation for the check to which the proposal relates and on that date would have been competent to make the proposal; 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 P wishes to be a party to the proceedings in respect of the proposal.”;
 - (b) in paragraph (3)(b) for “any IP referred to in paragraph (2)(e)” substitute “any person referred to in paragraph (2)(e) or (f)”;
 - (c) after paragraph (3) insert—
“(3A) For the purposes of considering under paragraph (2)(e)(i) or (f)(i) whether a person would have been competent at the date of a proposal to make that proposal, the requirements in regulations 4A(1) and 4B(2) are disregarded.”.
- (8) In regulation 13 (disagreement as to proposed alteration)—
 - (a) for paragraph (2)(c) substitute—
“(c) any person mentioned in regulation 12(2)(e) or (f);”;
 - (b) at the beginning of paragraph (3) insert “Subject to paragraph (3A),”;
 - (c) after paragraph (3) insert—
“(3A) A decision notice served on a person mentioned in paragraph (2)(c) who is not an IP when the notice is served must contain—
 - (a) a statement that the VO is of the opinion that the proposal is not well-founded, that the VO disagrees with the proposed alteration of the list and that the VO has decided—
 - (i) not to alter the list according to the proposal; or
 - (ii) to alter the list otherwise than in accordance with the proposal;
 - (b) the reasons for that decision.”.

Amendment of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

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

- (2) In regulation 2 (interpretation: general)—
 - (a) in paragraph (3)(d)(i)(bb) for “since the proposal was made” substitute “since the date mentioned in paragraph (3A)”;
 - (b) after paragraph (3) insert—

(a) S.I. 2009/2269; relevant amending instruments are S.I. 2017/156, S.I. 2018/398.

“(3A) The date referred to in paragraph (3)(d)(i)(bb) is the date on which the VO received the confirmation under regulation 4C of the NDR Regulations for the check to which the proposal which is the subject of the appeal relates(a).”.

(3) In regulation 36(3)(c) (notice of decisions) for paragraph (ii) substitute—

“(ii) any person mentioned in regulation 12(2)(e) or (f) of the NDR Regulations.”.

Transitional provision

4. The amendments made by regulations 2 and 3 do not have effect in relation to a case where the valuation officer(b) received the confirmation under regulation 4C (confirmation of accuracy of information) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 before the date on which these Regulations came into force.

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

Bourne of Aberystwyth

Parliamentary Under Secretary of State

30th July 2018

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, S.I. 2009/2268 (“the 2009 Regulations”). The 2009 Regulations are primarily concerned with the process for the alteration of local and central non-domestic rating lists (“lists”). The lists are compiled and maintained by valuation officers under Part 3 of the Local Government Finance Act 1988.

The 2009 Regulations provide for a check of the accuracy of information held by the valuation officer to be the first part of the alteration process. After the check has been concluded a person may make a proposal to the valuation officer, proposing an alteration of the list. Regulation 2(3)(a) of these Regulations amends the 2009 Regulations to add a category of person who may make such a proposal; the category consists of a person who was an interested party (within the meaning in the 2009 Regulations) at the time the check of information was initiated, but is no longer an interested party in relation to that hereditament. The other amendments to the 2009 Regulations are either consequential on that amendment or make other changes to provisions in those Regulations about proposals. Regulation 3 amends the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. 2009/2269, as a consequence of the amendment made by regulation 2(3)(a). Regulation 4 contains transitional provisions.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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(a) See regulation 2(1) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. 2009/2269, for the meaning of “VO”.

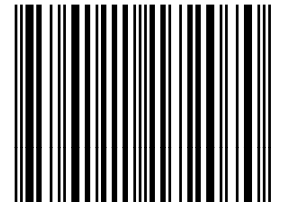
(b) See section 61 of the Local Government Finance Act 1988 as to the appointment of valuation officers.

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