STATUTORY INSTRUMENTS

2018 No. 398

RATING AND VALUATION, ENGLAND

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

Made - - - - 26th March 2018

Coming into force in accordance with regulation 1(2)

The Secretary of State, in exercise of the powers conferred by sections 55(2), (4), (4A) and (4B) and 143(1) and (2) of, and paragraphs A19, 8, 11 and 16 of Schedule 11 to, the Local Government Finance Act 1988(**1**), makes the following Regulations.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 143(3E)(a) of that Act.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2018.

(2) These Regulations come into force on the day after the day on which they are made.

Application

2. The amendments made by these Regulations apply only in relation to a local non-domestic rating list(**2**) or central non-domestic rating list(**3**) compiled on or after 1st April 2017.

(**1**) 1988 c. 41. Relevant amendments were made to section 55 by section 139 of, and Schedule 5 to, the Local Government and Housing Act 1989 (c. 42); sections 104, 117 and 118 of, and Schedules 10 and 13 to, the Local Government Finance Act 1992 (c. 14); sections 220 and 241 of, and Schedules 16 and 18 to, the Local Government and Public Involvement in Health Act 2007 (c. 28); section 32 of the Enterprise Act 2016 (c. 12). Relevant amendments were made to section 143 by section 32 of the Enterprise Act 2016.

(**2**) See section 41(1) of the Local Government Finance Act 1988 for the meaning of "local non-domestic rating list".

(**3**) See section 52(1) of that Act for the meaning of "central non-domestic rating list".

Interpretation

3. In these Regulations—

"the 2009 Procedure Regulations" means the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(**4**); and

"the 2009 Regulations" means the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(**5**).

PART 2

Amendment of the 2009 Regulations

Amendment of regulation 2

4.—(1) Regulation 2 of the 2009 Regulations (interpretation: general) is amended as follows.

(2) In paragraph (1)—

(a) at the appropriate places insert—

""Part 2 penalty" means a financial penalty imposed under regulation 9A;"; and

""Schedule 9 penalty" means a penalty imposed under paragraph 5A of Schedule 9 to the Act(**6**);"; and

(b) in the definition of "appeal"—

(i) before paragraph (a)(**7**) insert—

"(za) regulation 9C(**8**);"; and

(ii) in paragraph (c) before "penalty" insert "Schedule 9".

(3) In paragraph (3)(a)(**9**), for "against imposition of a penalty" substitute "under regulation 9C or an appeal against imposition of a Schedule 9 penalty".

(4) After paragraph (3) insert—

"(4) In these Regulations, a reference to the end of the period for making an appeal under regulation 9C is a reference to—

(a) the end of the period of 28 days mentioned in regulation 9C(4); or

(b) if that period is extended by the VTE under regulation 6(3)(a) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(**10**), the end of the extended period.".

Insertion of regulations 9A to 9D

5. After regulation 9 of the 2009 Regulations (procedure after a proposal is made) insert—

(**4**) S.I. 2009/2269; relevant amending instruments are S.I. 2011/434, 2013/465 and 2017/156.
(**5**) S.I. 2009/2268; relevant amending instruments are S.I. 2011/434, 2015/424 and 2017/155.
(**6**) Paragraph 5A was inserted by the Local Government Act 2003 (c. 26), section 72(1), (4).
(**7**) Paragraph (a) was substituted by S.I. 2017/155.
(**8**) Regulation 9C was inserted by S.I. 2018/398.
(**9**) Paragraph (3)(a) was amended by S.I. 2017/155.
(**10**) S.I. 2009/2269; relevant amending instruments are S.I. 2011/434, 2013/465 and 2017/156.

"**Imposition of a Part 2 penalty**

9A.—(1) This regulation applies in relation to a proposal(**11**) made by a person in relation to a hereditament.

(2) The VO may impose a financial penalty on that person if—

(a) the person provides the VO with information in, or in connection with, the proposal which is false in a material particular; and

(b) the person does so knowingly, recklessly or carelessly.

(3) The amount of penalty payable is—

(a) for a smaller proposer(**12**), £200; and

(b) for any other person, £500.

(4) If the VO imposes a penalty under this regulation, the VO must serve a notice on the person ("penalty notice") stating—

(a) that a Part 2 penalty has been imposed;

(b) the date on which the check to which the proposal relates(**13**) was completed in relation to the hereditament;

(c) the date the proposal was made;

(d) the date the proposal was determined (if it has been determined);

(e) the information which was found to be false;

(f) the date the information was provided;

(g) the date the penalty notice is served;

(h) the amount of the penalty; and

(i) the person's right to appeal to the VTE under regulation 9C.

(5) In this regulation, "information in connection with the proposal" means the following information provided by a person as part of the check to which the proposal relates—

(a) a confirmation(**14**);

(b) any information provided by the person under regulation 4C(1)(a) or (b)(**15**).

Payment of a Part 2 penalty

9B.—(1) Any sum received by the VO by way of a Part 2 penalty must be paid into the Consolidated Fund.

(2) The VO may recover any outstanding Part 2 penalty as a civil debt due to the VO.

(3) A claim to recover a Part 2 penalty may not be made—

(a) until the end of the period for making an appeal under regulation 9C; or

(b) if an appeal is made under regulation 9C, until the appeal is decided.

(4) The VO may remit in full a Part 2 penalty.

(5) If the VO remits a Part 2 penalty, the VO must refund any amount paid in respect of that penalty.

(**11**) The definition of "proposal" in regulation 2 was amended by S.I. 2017/155.
(**12**) The definition of "smaller proposer" was inserted in regulation 3 by S.I. 2017/155.
(**13**) See regulations 6(1) and 6A(2) (respectively substituted and inserted by S.I. 2017/155) for the period within which a person may make a proposal following completion of a check.
(**14**) The definition of "confirmation" was inserted in regulation 3 by S.I. 2017/155.
(**15**) Regulation 4C was inserted by S.I. 2017/155.

(6) If the VO imposes a Part 2 penalty of £500 on a smaller proposer, the VO must—

(a) refund to the smaller proposer any amount of penalty paid in excess of £200; or

(b) if the penalty has not been paid, reduce the amount payable to £200.

Appeal against imposition or amount of a Part 2 penalty

9C.—(1) This regulation applies if a person has been served a penalty notice under regulation 9A(4).

(2) The person may appeal to the VTE against—

(a) the imposition of the penalty; or

(b) the amount of the penalty if—

(i) the person is a smaller proposer; and

(ii) the VO has imposed a Part 2 penalty of £500 on the person.

(3) An appeal must be made by serving a notice of appeal on the VTE—

(a) using the VTE's electronic portal; or

(b) in another manner agreed with the VTE.

(4) The person must serve the notice of appeal on the VTE so that it is received within 28 days after the date on which the penalty notice was served on the person.

(5) A notice of appeal must state—

(a) whether the appeal is against—

(i) the imposition of the penalty; or

(ii) the amount of the penalty; and

(b) the date on which the penalty notice was served on the person.

(6) A notice of appeal must be accompanied by—

(a) a copy of the penalty notice; and

(b) if the appeal is against the amount of the penalty—

(i) a statement that the person is a smaller proposer; and

(ii) a copy of the confirmation(**16**) provided as part of the check to which the proposal relates.

(7) If the person serves the notice of appeal on the VTE later than the time required by paragraph (4) or allowed by an extension of time under regulation 6(3)(a) of the Procedure Regulations, the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not served in time.

Effect on time frame for determining proposal

9D.—(1) This regulation applies in relation to the determination of a proposal if a Part 2 penalty is imposed before the proposal is determined.

(2) The VO must not determine the proposal until the end of the period for making an appeal under regulation 9C.

(3) If an appeal is made under regulation 9C against the imposition of the penalty, the VO must not determine the proposal until the VTE has decided the appeal.".

(**16**) Under regulation 4C(3) a confirmation must include a statement as to whether or not, on the day the person provides the confirmation, the proposer qualifies as a smaller proposer.