STATUTORY INSTRUMENTS

2017 No. 155

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017

Made - - - -	*16th March 2017*
Laid before Parliament	*17th March 2017*
Coming into force - -	*1st April 2017*

The Secretary of State, in exercise of the powers conferred by sections 55(2) to (6) and (7A) and 143(1) and (2) of the Local Government Finance Act 1988(**1**), makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017.

(2) These Regulations come into force on 1st April 2017.

Application

2. The amendments made by these Regulations apply only in relation to—

(a) a local non-domestic rating list(**2**) compiled on or after 1st April 2017; and

(b) a central non-domestic rating list(**3**) compiled on or after 1st April 2017.

Interpretation

3. In these Regulations, "the 2009 Regulations" means the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(**4**).

(**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".

(**4**) S.I. 2009/2268; relevant amending instruments are S.I. 2011/434 and 2015/424.

Amendment of regulation 2

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

(2) In paragraph (1)—

(a) at the appropriate place insert—

> ""VTE's electronic portal" means the online facility provided by the VTE for use in connection with appeals made in relation to—
>
> (a) a local list compiled on or after 1st April 2017; or
>
> (b) a central list compiled on or after 1st April 2017;";

(b) in the definition of "appeal", for paragraph (a) substitute—

> "(a) regulation 13A;"; and

(c) in the definition of "proposal", after "means a proposal" insert "under regulation 6".

(3) In paragraph (3)—

(a) in sub-paragraph (a), omit "an appeal under regulation 8 or"; and

(b) in sub-paragraph (b), for "regulation 13" substitute "regulation 13A".

Amendment of regulation 3

5.—(1) Regulation 3 (interpretation of Part 2) of the 2009 Regulations is amended as follows.

(2) The existing provision (excluding the heading) is renumbered as paragraph (1).

(3) In paragraph (1) as renumbered—

(a) at the appropriate place insert—

> ""check", in relation to a hereditament, has the meaning given in regulation 4A;
>
> "confirmation" means a confirmation under regulation 4C(1)(c);
>
> "grounds of the appeal" means the ground or grounds in regulation 13A(2) on which an appeal is made;
>
> "grounds of the proposal" means the ground or grounds in regulation 4 on which a proposal is made;
>
> "incomplete proposal" has the meaning given in regulation 8(1);
>
> "particulars of the grounds of the proposal" has the meaning given in regulation 6(4)(b);
>
> "smaller proposer" means a person who qualifies as a smaller proposer under regulation 3A on the day the person provides a confirmation;
>
> "VO's electronic portal" means the online facility provided by the VO for use in connection with proposals for the alteration of a local list compiled on or after 1st April 2017;"; and

(b) in the definition of "list", for "1st April 2005" substitute "1st April 2017".

(4) After paragraph (1) insert—

> "(2) For the purpose of this Part, a proposal is "determined" if—
>
> (a) it is withdrawn under regulation 11;
>
> (b) it is treated as withdrawn under regulation 12; or
>
> (c) a decision is given under regulation 10 or 13 in relation to the proposal.".

Insertion of regulation 3A

6. After regulation 3 of the 2009 Regulations insert—

"**Qualifying as a smaller proposer**

3A.—(1) For the purpose of these Regulations, a person mentioned in regulation 4(2) qualifies as a smaller proposer on a day if on that day the person—

(a) falls within the definition of "micro business" in section 33(3) of the Small Business, Enterprise and Employment Act 2015 ("the 2015 Act")(**5**), subject to the modifications(**6**) contained in this regulation; or

(b) is an individual who does not fall within the definition of "undertaking" in section 33(6) of the 2015 Act, subject to the modifications contained in this regulation.

(2) In paragraph (a) of the definition of "undertaking" in section 33(6) of the 2015 Act, the reference to "businesses" is to be read as if section 27 of that Act applies to that reference.

(3) In determining whether an undertaking meets the "micro business size conditions" defined in section 33(3) of the 2015 Act, all business activities within the meaning of section 27 of that Act ("business activities") carried on by the undertaking must be taken into account.

(4) Regulations made under section 33(4) of the 2015 Act do not apply to the meaning of "micro business" in section 33 of that Act.

(5) The definition of "micro business" in section 33(3) of the 2015 Act is to be read as if—

(a) "balance sheet total" means the aggregate of the amounts shown as assets in a balance sheet of the undertaking's assets and liabilities prepared by the undertaking during the last 12 month period;

(b) "head count of staff" means the average number of persons employed by the undertaking, as determined under paragraph (6) of this regulation;

(c) "micro business threshold" means—

(i) in relation to balance sheet total, £2 million;

(ii) in relation to turnover, for an undertaking that has carried on business activities for at least 12 months, £2 million;

(iii) in relation to turnover, for an undertaking that has carried on business activities for less than 12 months, an amount proportionally adjusted; and

(d) "turnover" has the same meaning as in section 474(1) of the Companies Act 2006(**7**).

(6) The average number of persons employed by the undertaking is determined as follows—

(a) for an undertaking that has carried on business activities for at least 12 months—

(i) for each month in the last 12 month period, find the number of persons employed under contracts of employment by the undertaking at any time in that month;

(**5**) 2015 c. 26.
(**6**) Section 33(5) of the Small Business, Enterprise and Employment Act 2015 (c. 26) provides that section 33 and regulations made under that section are to be read subject to any modifications made by subordinate legislation made by a Minister of the Crown that uses the term "micro business" and defines it by reference to that section.
(**7**) 2006 c. 46.

(ii) add together the monthly totals; and

(iii) divide by 12;

(b) for an undertaking that has carried on business activities for less than 12 months—

(i) for each of those months, find the number of persons employed under contracts of employment by the undertaking at any time in that month;

(ii) add together the monthly totals; and

(iii) divide by the number of monthly totals.

(7) In this regulation, "last 12 month period" means the period of 12 months ending on the day mentioned in paragraph (1).".

Amendment of regulation 4

7. In regulation 4 (circumstances in which proposals may be made) of the 2009 Regulations—

(a) omit paragraph (2)(b); and

(b) in paragraph (3)(c) for "in question" substitute "was made as a result of a previous proposal relating to that hereditament or".

Insertion of regulations 4A to 4F

8. After regulation 4 (circumstances in which proposals may be made) of the 2009 Regulations insert—

"**Check of information about a hereditament**

4A.—(1) A person may not make a proposal in relation to a hereditament unless a check of information about the hereditament has been completed ("a check").

(2) A check consists of the steps in regulations 4B to 4F.

(3) For the purpose of these Regulations, a check is completed in relation to a hereditament on—

(a) the date on which the VO serves a notice under regulation 4F(1); or

(b) the date on which the check is taken to be completed under regulation 4F(3).

Request for information held by the VO

4B.—(1) This regulation applies to a person mentioned in regulation 4(2).

(2) Before making a proposal in relation to a hereditament, the person must request from the VO information which the VO holds about the hereditament.

(3) On receiving a request for information under paragraph (2), the VO must provide the person with that information if—

(a) the information reasonably relates to any of the grounds set out in regulation 4; and

(b) the VO considers it reasonable to provide the person with that information.

(4) When providing the person with information under paragraph (3), if the VO is missing any factual information about the hereditament the VO may ask the person to provide the VO with the missing information.

(5) The person must request or provide information under this regulation—

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

(b) in another manner agreed with the VO.

Confirmation of accuracy of information

4C.—(1) On receiving information about the hereditament provided by the VO under regulation 4B(2), the person must—

(a) if any of that information is inaccurate, provide the VO with the accurate information;

(b) if the VO has asked the person under regulation 4B(4) to provide the VO with any missing factual information, provide the VO with the missing information; and

(c) confirm to the VO—

(i) which of the information provided by the VO under regulation 4B(3) is accurate; and

(ii) that any information provided by the person under sub-paragraph (a) or (b) is accurate.

(2) A confirmation and any information provided by a person under paragraph (1) must be provided—

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

(b) in another manner agreed with the VO.

(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.

Acknowledgment of receipt of confirmation

4D.—(1) On receiving a confirmation, the VO must serve on the person who made the confirmation a written acknowledgement of receipt which must state—

(a) the date on which the VO received the confirmation; and

(b) the date of the acknowledgement.

(2) For the purpose of these Regulations, the date on which the VO received a confirmation is the date stated in the acknowledgement in accordance with paragraph (1)(a).

Completion of check

4E. On receiving any information provided under regulation 4C(1), the VO must—

(a) decide if that information is accurate or inaccurate;

(b) alter the list to correct any inaccuracy in relation to—

(i) the rateable value of the hereditament; or

(ii) any other information shown in the list about the hereditament; and

(c) update any other information held by the VO about the hereditament to correct any inaccuracy.

Notification that a check has been completed

4F.—(1) As soon as reasonably practicable after the steps in regulations 4B to 4E have been taken in relation to a hereditament, the VO must serve on the person who made the request under regulation 4B(2) a notice stating that a check has been completed in relation to the hereditament.