

2017 No. 156

COUNCIL TAX, ENGLAND

RATING AND VALUATION, ENGLAND

The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) (Amendment) Regulations 2017

<i>Made</i> - - - -	<i>16th March 2017</i>
<i>Laid before Parliament</i>	<i>17th March 2017</i>
<i>Coming into force</i> - -	<i>1st April 2017</i>

The Secretary of State, in exercise of the powers conferred by sections 55(2) to (6) and 143(1) and (2) of, and paragraphs A19, 8 and 16 of Schedule 11 to the Local Government Finance Act 1988(a), makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) (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(b) compiled on or after 1st April 2017; and
- (b) a central non-domestic rating list(c) compiled on or after 1st April 2017.

Interpretation

3. In these Regulations “the 2009 Procedure Regulations” means the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(d).

(a) 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 (c. 12). Relevant amendments were made to Schedule 9 by section 117 of, and Schedule 13 to, the Local Government Finance Act 1992 (c. 14); section 1 of the Non-Domestic Rating (Information) Act 1996 (c. 13); and section 117 of the Local Government Finance Act 2012 (c. 17).

(b) See section 41(1) of the Local Government Finance Act 1988 for the meaning of “local non-domestic rating list”.

(c) See section 52(1) of that Act for the meaning of “central non-domestic rating list”.

(d) S.I. 2009/2269; relevant amending instruments are S.I. 2011/434 and S.I. 2013/465.

Amendment of regulation 2

4. In regulation 2 (interpretation: general) of the 2009 Procedure Regulations—

- (a) in paragraph (1)—
 - (i) in the definition of “appeal”, for paragraph (c) substitute—
“‘(c) regulation 13A of the NDR Regulations;’”; and
 - (ii) after the definition of “local list” insert—
“‘NDR appeal’ means an appeal under regulation 13A of the NDR Regulations;”;
- (b) in paragraph (3)(d)(i)—
 - (i) for “regulation 8, 13” substitute “regulation 13A”; and
 - (ii) for “VO” substitute “VTE”; and
- (c) after paragraph (3) insert—

“(4) A reference in these Regulations to a matter included in the notice of appeal or any document accompanying the notice of appeal^(a) does not include any particulars of the grounds of the proposal with which the VO agreed^(b).

(5) In paragraph (4), “particulars of the grounds of the proposal” has the meaning given in the NDR Regulations.”.

Amendment of regulation 5

5. In regulation 5 (arrangements for appeals) of the 2009 Procedure Regulations—

- (a) for paragraph (2) substitute—

“(2) The VTE shall not deal with an appeal under regulation 10 of the CT Regulations or a NDR appeal until any appeal under regulation 7 of the CT Regulations in respect of the same proposal has been decided.”;
- (b) in paragraph (3) for “referred under regulation 13” substitute “made under regulation 13A”.

Amendment of regulation 6

6. In regulation 6 (appeal management powers) of the 2009 Procedure Regulations—

- (a) in paragraph (3)(c), before “permit” insert “subject to paragraph (4),”;
- (b) in paragraph (3)(d), before “permit” insert “subject to regulations 17, 17A and 18A,”;
- (c) after paragraph (3) insert—

“(4) The VTE may permit or require a party to a NDR appeal to amend a document under paragraph (3)(c) only if the amendment is in order to correct an inaccuracy in the document.”.

Amendment of regulation 7

7. In regulation 7 (lead appeals) of the 2009 Procedure Regulations, in paragraph (1)(a)(ii) for “regulation 13” substitute “regulation 13A”.

Amendment of regulation 17

8. In regulation 17 (evidence and submissions) of the 2009 Procedure Regulations—

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- (a) Under regulation 13C of S.I. 2009/2268, a notice of appeal must be accompanied by a copy of the proposal.
 - (b) Under regulation 13(3)(c) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2268), as inserted by S.I. 2017/155, a decision notice served on the proposer must include a summary of any particulars of the grounds of the proposal with which the VO did not agree.

- (a) in paragraph (1), for “The VTE” substitute “Subject to paragraph (1A), the VTE”;
- (b) after paragraph (1) insert—
 - “(1A) The VTE may only direct a party to a NDR appeal to provide evidence or submissions that relate to a matter included in—
 - (a) the notice of appeal or any document accompanying the notice of appeal; or
 - (b) new or further evidence admitted under regulation 17A.”;
- (c) in paragraph (2), for “The VTE” substitute “Subject to regulation 17A, the VTE”;
- (d) in paragraph (4), at the end insert—
 - “(c) for a NDR appeal, the information relates to a matter included in—
 - (i) the notice of appeal or any document accompanying the notice of appeal; or
 - (ii) new or further evidence admitted under regulation 17A.”; and
- (e) after paragraph (6) insert—
 - “(6A) On a NDR appeal, the VTE may only admit as evidence documents produced or submitted under paragraph (6)(b) that relate to a matter included in—
 - (a) the notice of appeal or any document accompanying the notice of appeal; or
 - (b) new or further evidence admitted under regulation 17A.”.

Insertion of regulation 17A

9. After regulation 17 of the 2009 Procedure Regulations insert—

“Admission of new evidence on NDR appeal

17A.—(1) On a NDR appeal, the VTE may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal (“new evidence”) if—

- (a) that evidence—
 - (i) is provided by a party to the appeal;
 - (ii) relates to the ground on which the proposal was made; and
 - (iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations(a); or
- (b) all the parties to the appeal agree in writing to the party providing the new evidence.

(2) If the VTE admits new evidence under paragraph (1), the VTE may admit further evidence provided by another party to the appeal if the further evidence specifically relates to—

- (a) the new evidence; and
- (b) the ground on which the proposal was made.

(3) A party which provides evidence under paragraph (1) or (2) must also provide that evidence to all the other parties to the appeal.”.

Amendment of regulation 18

10. In regulation 18 (summoning of witnesses, and orders to answer questions or produce documents) of the 2009 Procedure Regulations, before paragraph (1) insert—

(a) Regulation 3(2) of the NDR Regulations sets out the circumstances in which, for the purposes of Part 2 of those Regulations, a proposal is determined.

“(A1) In relation to a NDR appeal, this regulation applies subject to regulation 18A.”.

Insertion of regulation 18A

11. After regulation 18 of the 2009 Procedure Regulations insert—

“Summoning of witnesses, and orders to answer questions or produce documents on NDR appeal

18A.—(1) This regulation applies in relation to a NDR appeal.

(2) The VTE may only issue a summons under regulation 18(1)(a) requiring a person to attend a hearing as a witness in relation to matters included in—

- (a) the notice of appeal or any document accompanying the notice of appeal;
- (b) evidence or submissions provided in accordance with a direction under regulation 17(1);
- (c) information to which regulation 17(4) applies which is used in the proceedings by the VO;
- (d) evidence admitted under regulation 17(6A); or
- (e) new or further evidence admitted under regulation 17A.

(3) The VTE may only order a person under regulation 18(1)(b) to answer questions in relation to matters included in—

- (a) the notice of appeal or any document accompanying the notice of appeal;
- (b) evidence or submissions provided in accordance with a direction under regulation 17(1);
- (c) information to which regulation 17(4) applies which is used in the proceedings by the VO;
- (d) evidence admitted under regulation 17(6A); or
- (e) new or further evidence admitted under regulation 17A.

(4) The VTE may only order a person under regulation 18(1)(b) to produce documents that relate to matters included in—

- (a) the notice of appeal or any document accompanying the notice of appeal;
- (b) evidence or submissions provided in accordance with a direction under regulation 17(1);
- (c) information to which regulation 17(4) applies which is used in the proceedings by the VO;
- (d) evidence admitted under regulation 17(6A); or
- (e) new or further evidence admitted under regulation 17A.”.

Amendment of regulation 19A

12. In regulation 19A (withdrawals and deemed withdrawals for non-domestic rating appeals) of the 2009 Procedure Regulations(a)—

- (a) in paragraph (2)(a)(ii) for “VO” substitute “appellant”;
- (b) for paragraph (3) substitute—

“(3) The VTE must notify each party in writing of a withdrawal under paragraph (2).”.

- (c) in paragraph (5) after “any” insert “other”;
- (d) for paragraph (6)(a) substitute—

(a) Regulation 19A was inserted by S.I. 2011/434.

- “(a) the date on which the VTE notifies each party under paragraph (3) of the withdrawal of the appeal; or”;
- (e) in paragraph (7) for “regulation 13 of the NDR Regulations (disagreement as to proposed alteration)” substitute “regulation 13A of the NDR Regulations (making an appeal to the VTE)”; and
- (f) omit paragraphs (9) and (10).

Amendment of regulation 33

13. In regulation 33 (appeals relating to validity of proposals) of the 2009 Procedure Regulations—

- (a) omit “or regulation 13 of the NDR Regulations (disagreement as to proposed alteration)”;
- (b) omit “or, as the case may be, the VO”.

Amendment of regulation 36

14. In regulation 36 (notice of decisions) of the 2009 Procedure Regulations, after paragraph (2) insert—

“(3) For a NDR appeal—

- (a) a decision notice provided under paragraph (2)(a) must be accompanied by a written statement of the VTE panel’s reasons for the decision;
- (b) the statement of reasons for the decision must specify which, if any, grounds of the appeal were made out; and
- (c) the VTE must send a copy of the decision notice and the statement of reasons for the decision to—
 - (i) if the appellant is not the ratepayer, the ratepayer; and
 - (ii) any IP mentioned in regulation 12(2)(e) of the NDR Regulations who was served a notice of the VO’s decision under regulation 13(2) of those Regulations.

(4) In paragraph (3)(b), “grounds of the appeal” has the meaning given in regulation 2 of the NDR Regulations.”.

Insertion of regulation 37A

15. After regulation 37 (reasons for the decision) of the 2009 Procedure Regulations insert—

“Matters which must not be taken into account in NDR appeals

37A.—(1) This regulation applies in relation to a NDR appeal.

(2) In determining an appeal, the VTE must not take into account any matter unless it was included in—

- (a) the notice of appeal or any document accompanying the notice of appeal;
- (b) evidence or submissions provided in accordance with a direction under regulation 17(1);
- (c) information to which regulation 17(4) applies which is used in the proceedings by the VO;
- (d) evidence admitted under regulation 17(6A); or
- (e) new or further evidence admitted under regulation 17A.”.

Amendment of regulation 38

16. In regulation 38 (orders other than consent orders) of the 2009 Procedure Regulations, in paragraph (4) for “an appeal under regulation 13 of the NDR Regulations (disagreement as to proposed alteration)” substitute “a NDR appeal”.

Transitional provision

17. The 2009 Procedure Regulations as in force immediately before these Regulations come into force continue to have effect in relation to a rating list compiled before 1st April 2017.

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

Marcus Jones

Parliamentary Under Secretary of State

Department of Communities and Local Government

16th March 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, amend the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (“the 2009 Procedure Regulations”).

The Regulations provide for the introduction of a new appeals system which is to have effect in relation to rating lists compiled on or after 1st April 2017. This is to coincide with the date of the next revaluation.

Regulations 4 and 5 make amendments to cross references to reflect the amendments made by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017 (S.I. 2017/155).

Regulation 6 inserts a provision to restrict the appeal management powers of the VTE in relation to appeals under regulation 13A of the NDR Regulations (“NDR appeals”). These amendments are made to reflect the new provisions regarding matters which are not to be taken into account by the VTE.

Regulation 7 amends a cross reference to reflect the amendments made by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017.

Regulation 8 provides that regulation 17 of the 2009 Procedure Regulations applies subject to the new regulation 17A (inserted by regulation 9) which provides specifically for admission of evidence in NDR appeals.

Regulation 10 provides that regulation 18 of the 2009 Procedure Regulations applies subject to the new regulation 18A (inserted by regulation 11) which makes specific provision in relation to witnesses and production of documents in relation to NDR appeals.

Regulation 12 amends regulation 19A of the 2009 Procedure Regulations in relation to NDR appeals.

Regulation 13 amends regulation 33 of the 2009 Procedure Regulations in relation to NDR appeals.

Regulation 14 amends regulation 36 of the 2009 Procedure Regulations in relation to a decision notice given on a NDR appeal.

Regulation 15 inserts a new regulation 37A which sets out those matters which the VTE must not take into account in determining a NDR appeal.

Regulation 16 amends regulation 38 the 2009 Procedure Regulations.

Regulation 17 contains a transitional provision.

An impact assessment has not been produced for this instrument because it amends an existing local tax regime. Publication of a full impact assessment is not necessary for such legislation.

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