Draft Order laid before Parliament under section 44(2) of the Protection of Freedoms Act 2012, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No.

LOCAL GOVERNMENT, ENGLAND

RATING AND VALUATION, ENGLAND

The Council Tax and Non-Domestic Rating (Powers of Entry: Safeguards) (England) Order 2015

Made - - - -	***
Coming into force - -	*1st October 2015*

The Secretary of State(**a**) makes the following Order in exercise of the powers conferred by sections 40, 41(1) and 44(1) of the Protection of Freedoms Act 2012(**b**).

In accordance with section 43 of that Act, he has consulted—

(a) such persons appearing to him to be representative of the views of persons entitled to exercise the power of entry or associated power as he considered appropriate, and

(b) such other persons as he considered appropriate.

In accordance with section 44(2) of that Act, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Council Tax and Non-Domestic Rating (Powers of Entry: Safeguards) (England) Order 2015 and comes into force on 1st October 2015.

Amendment of the Local Government Finance Act 1988

2.—(1) Schedule 9 to the Local Government Finance Act 1988(**c**) is amended as follows.

(2) Before paragraph 7, after the heading "Power of entry" insert—

"**6B.**—(1) If a valuation officer needs to value a hereditament in England for the purpose of carrying out functions conferred or imposed on the officer by or under this Part, the officer and any person authorised by the officer in writing may enter on, survey and value

(**a**) See section 46 of the Protection of Freedoms Act 2012 (c. 9) for the definitions of "appropriate national authority", "Minister of the Crown" and "modifications" insofar as they are relevant to the exercise of powers by the Secretary of State in the making of this Order.
(**b**) 2012 c. 9.
(**c**) 1988 c. 41.

the hereditament if sub-paragraphs (2) and (4) are fulfilled and (where it applies) sub-paragraph (5) is fulfilled.

(2) The valuation officer must obtain the approval of the tribunal before the officer or a person authorised by the officer exercises the power under sub-paragraph (1).

(3) The tribunal must not give its approval unless it is satisfied that the valuation officer needs to value the hereditament.

(4) After the tribunal has given its approval, at least 3 days' notice in writing must be given of the proposed exercise of the power.

(5) In a case where a person authorised by the valuation officer proposes to exercise the power, the person must if required produce the authorisation.

(6) A person who wilfully delays or obstructs a person in the exercise of a power under this paragraph is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) For the purpose of the requirement under sub-paragraph (4), the following days are to be disregarded—

(a) a Saturday, a Sunday, Christmas Day or Good Friday;

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in England and Wales.

(8) The tribunal may—

(a) determine any application brought under this paragraph and any question arising from that application;

(b) specify the arrangements by which any entry approved by it must be conducted, including whether the entry may occur on more than one day.

(9) In this paragraph "the tribunal" means the First-tier Tribunal.".

(3) In paragraph 7(1) after "a hereditament" insert "in Wales".

Amendment of the Local Government Finance Act 1992

3.—(1) The Local Government Finance Act 1992(**b**) is amended as follows.

(2) Before section 26, after the heading "Supplemental" insert—

"Powers of entry: England

25A.—(1) If a valuation officer needs to value a dwelling in England for the purpose of carrying out any of the officer's functions, the officer and any servant of the Crown authorised by the officer in writing may enter on, survey and value the dwelling if subsections (2) and (4) are fulfilled and (where it applies) subsection (5) is fulfilled.

(2) The valuation officer must obtain the approval of the tribunal before the officer or a person authorised by the officer exercises the power under subsection (1).

(3) The tribunal must not give its approval unless it is satisfied that the valuation officer needs to value the dwelling.

(4) After the tribunal has given its approval, at least 3 days' notice in writing must be given of the proposed exercise of the power.

(5) In a case where a person authorised by a valuation officer proposes to exercise the power, that person must if required produce the authorisation.

(**a**) 1971 c. 80.
(**b**) 1992 c. 14.

(6) A person who intentionally delays or obstructs a person in the exercise of a power under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) For the purpose of the requirement under subsection (4), the following days are to be disregarded—

(a) a Saturday, a Sunday, Christmas Day or Good Friday;

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in England and Wales.

(8) The tribunal may—

(a) determine any application brought under this section and any question arising from that application;

(b) specify the arrangements by which any entry approved by it must be conducted, including whether the entry may occur on more than one day.

(9) In this section—

"the tribunal" means the First-tier Tribunal, and

"valuation officer" means any listing officer and any other officer of Revenue and Customs who is for the time being appointed by the Commissioners of Her Majesty's Revenue and Customs to carry out any of their functions.".

(3) In section 26—

(a) in the title of the section, at the end insert ": Wales", and

(b) in subsection (1) after "a dwelling" insert "in Wales".

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

Parliamentary Under Secretary of State
Date Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Local Government Finance Act 1988 ("the 1988 Act") and the Local Government Finance Act 1992 ("the 1992 Act") to prescribe a new requirement that must be fulfilled before a valuation officer may exercise the powers of entry conferred by those Acts for the purposes of council tax valuation and non-domestic rating. It also makes amendments to the required notice period before exercising the powers under the 1988 Act, and changes the fine level specified in the 1992 Act.

Article 2 amends paragraph 7 of Schedule 9 to the 1988 Act which confers a power of entry on valuation officers in relation to non-domestic hereditaments which are to be valued for the purposes of non-domestic rating. This Order inserts a requirement that a valuation officer obtain an approval from the First-tier Tribunal prior to exercising the power. Further, it amends the specified notice period in the 1988 Act to require the valuation officer to give at least 3 working days' notice before exercising the power.

Article 3 amends section 26 of the 1992 Act which confers a power of entry on valuation officers in relation to dwellings which are to be valued for the purposes of council tax. This Order inserts a requirement that a valuation officer obtain an approval from the First-tier Tribunal prior to

(**a**) 1971 c. 80.

exercising the power. The existing requirement for the valuation officer to give at least 3 working days' notice before exercising the power is amended so the notice is to be given after the approval is obtained. Finally, it amends the level of fine specified for delaying or obstructing a valuation officer in the exercise of the power from level 2 on the standard scale to level 1.

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

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