STATUTORY INSTRUMENTS

2018 No. 1193

LOCAL GOVERNMENT, ENGLAND

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Alteration of Lists) and Business Rate Supplements (Transfers to Revenue Accounts) (Amendment etc.) (England) Regulations 2018

Made - - - -	*19th November 2018*
Laid before Parliament	*21st November 2018*
Coming into force - -	*17th December 2018*

The Secretary of State for Housing, Communities and Local Government makes the following Regulations in exercise of the powers conferred by sections 55(2) to (4A), (5) and (6) and 143(1) and (2) of the Local Government Finance Act 1988(**a**) and by section 29(1) and (3) of, and paragraphs 2 and 5 of Schedule 3 to, the Business Rate Supplements Act 2009(**b**).

PART 1

Preliminary

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Alteration of Lists) and Business Rate Supplements (Transfers to Revenue Accounts) (Amendment etc.) (England) Regulations 2018 and come into force on 17th December 2018.

(2) In these Regulations —

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

"relevant proposal" means a proposal—

(a) made by a ratepayer on the ground in regulation 4(1)(k) of the 2009 Regulations;

(**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 117 and 118 of, and Schedules 10 and 13 to, the Local Government Finance Act 1992 (c. 14); sections 220 and 241 of, and Schedule 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.

(**b**) 2009 c. 7. These powers are exercisable by the appropriate national authority. The appropriate national authority is defined by section 30(1)(a) in relation to local authority areas in England as the Secretary of State.

(**c**) S.I. 2009/2268 amended by S.I. 2015/424, S.I. 2017/155 and S.I. 2018/398.

(b) which can only be made on that ground as a result of the coming into force of section 64(3ZA)(**a**) or (3ZB) of the Local Government Finance Act 1988.

PART 2

Properties in common occupation

Modification of the 2009 Regulations in respect of properties in common occupation

2. The 2009 Regulations as they have effect, by virtue of regulation 22(1) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017(**b**), in relation to—

(a) a local non-domestic rating list compiled on 1st April 2010; and

(b) a proposal for the alteration of that list,

apply to a relevant proposal with the modifications set out in regulations 3 to 9.

Modification of regulation 3

3. Regulation 3 (interpretation of Part 2) applies as if at the appropriate places there were inserted—

""2010 list" means a local list compiled on 1st April 2010;

"relevant proposal" means a proposal made by a ratepayer on the ground in regulation 4(1)(k) as a result of the coming into force of section 64(3ZA) or (3ZB) of the Act ;".

Modification of regulation 4

4. Regulation 4 (circumstances in which proposals may be made) has effect as if—

(a) in paragraph (2) after "a proposal" there were inserted "(other than a relevant proposal)";

(b) after paragraph (2) there were inserted—

"(2A) A relevant proposal may be made by a person who—

(a) has reason to believe that the ground set out in paragraph (1)(k) exists; and

(b) has reason to believe that the ground relates to any time during which the person was a ratepayer in relation to that hereditament."; and

(c) after paragraph (3)(a) there were inserted—

"(aa) by reference to more than one ground where the ground set out in paragraph (1)(k) is being relied on;".

Modification of regulation 5

5. Regulation 5 (periods in which proposals may be made) applies as if—

(a) in paragraph (1) after "(2)," there were inserted " (3) and (5),";

(b) after paragraph (2) there were added—

"(3) Subject to paragraph (5), a relevant proposal may only be served on the VO before 1st January 2020.

(**a**) Section 64(3ZA) and (3ZB) were inserted by the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 (c. 25), section 1.

(**b**) S.I. 2017/155 to which there are amendments not relevant to this instrument.

(4) Paragraph (5) applies where some or all of a hereditament ("hereditament A") was comprised in a hereditament ("hereditament B") in respect of which an alteration is made to a 2010 list in order to give effect to a relevant proposal.

(5) Where this paragraph applies, a relevant proposal in respect of hereditament A may only be served on the VO before 1st January 2020 or within six months of the date on which the alteration is made to the 2010 list in respect of hereditament B, whichever is the later."

Modification of regulation 6

6. Regulation 6 (proposals: general) applies as if—

(a) in paragraph (1) after "proposal" there were inserted ", other than a relevant proposal,";

(b) after paragraph (5) there were added—

"(6) A relevant proposal shall be made by notice served on the VO which shall—

(a) state the name and address of the proposer;

(b) state whether the proposer was, in respect of the property, the ratepayer for a period during which a 2010 list was in force;

(c) identify the dates for which the proposer was a ratepayer in respect of the property;

(d) identify the property to which the proposal relates;

(e) identify the respects in which it is proposed that the 2010 list be altered; and

(f) include—

(i) a statement of the grounds for making the proposal; and

(ii) a statement of the reasons for believing that those grounds exist.".

Modification of regulation 8

7. Regulation 8 (disputes as to validity of proposals) applies as if—

(a) in paragraph (1) after "paragraphs" there were inserted "(1A),";

(b) after paragraph (1) there were inserted—

"(1A) The VO must serve an invalidity notice in relation to a relevant proposal where the proposal does not include the information required by regulation 6(6)(c).";

(c) in paragraph (4), sub-paragraphs (a)(ii)(bb) and (b)(i)(bb) were omitted;

(d) in paragraphs (6)(a), (7)(b) and (8) for "further proposal" there were substituted "further relevant proposal";

(e) in paragraph (10)(a) before "list" there were inserted "2010".

Modification of regulation 13

8. Regulation 13 (disagreement as to proposed alteration) applies as if in paragraphs (1) and (2)(b)(i) before "list" there were inserted "2010".

Modification of regulation 14

9. Regulation 14 (time from which alteration is to have effect: 2005 and subsequent lists) applies as if—

(a) after paragraph (2B) there were inserted—

"(2C) Where an alteration is made to a 2010 list in order to give effect to a relevant proposal the alteration—

(a) shall have effect from the later of—

(i) the day on which the circumstances giving rise to the proposal first occurred; and

(ii) the day on which the proposer became the ratepayer in relation to the hereditament; and

(b) shall have effect until the earlier of—

(i) the day on which there is a material change of circumstances; and

(ii) the day on which the proposer ceases to be the ratepayer in relation to the hereditament."; and

(b) in paragraph (6) after "(2B)" there were inserted ", (2C)".

PART 3

Nursery grounds

Modification of the 2009 Regulations in respect of nursery grounds

10.—(1) The 2009 Regulations as they have effect, by virtue of regulation 22(1) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017, in relation to—

(a) a local non-domestic rating list compiled on 1st April 2010; and

(b) a proposal for the alteration of that list,

apply to a nursery ground proposal with the modifications set out in regulation 11.

(2) In paragraph (1) "nursery ground proposal" means a proposal made by a ratepayer on the ground in regulation 4(1)(h) or (i) of the 2009 Regulations in respect of a hereditament which includes a building which is or forms part of a nursery ground and is used solely in connection with agricultural operations at the nursery ground.

Modification of regulation 5

11. Regulation 5 applies as if—

(a) in paragraph (1) after "(2)" there were inserted "and (3)";

(b) after paragraph (2) there were inserted—

"(3) A nursery ground proposal may only be served on the VO before 1st January 2020.

(4) In paragraph (3) "nursery ground proposal" means a proposal made by a ratepayer on the ground in regulation 4(1)(h) or (i) in respect of a hereditament which includes a building which is or forms part of a nursery ground and is used solely in connection with agricultural operations at the nursery ground.".

PART 4

Check of information about historic hereditaments

Amendment of the 2009 Regulations: checks of information about historic hereditaments

12.—(1) In regulation 4A(**a**) of the 2009 Regulations at the end insert—

"(4) This regulation is subject to regulation 4AA.".

(2) After regulation 4A of the 2009 Regulations insert—

(**a**) Regulation 4A was inserted by S.I. 2017/155.

"**Checks of information about historic hereditaments**

4AA.—(1) This regulation applies where—

(a) on a day ("the creation day") falling on or after 1st April 2017, a hereditament ("new hereditament") comes into existence because—

(i) property previously rated as a single hereditament becomes liable to be rated in parts;

(ii) property previously rated in parts becomes liable to be rated as a single hereditament; or

(iii) a hereditament or any part of a hereditament becomes part of a different hereditament; and

(b) on or after the creation day, any hereditament from which the new hereditament was formed in whole or in part ("historic hereditament") was shown in a list.

(2) Where this regulation applies—

(a) for the purpose of regulation 4A(1), a check in relation to a new hereditament shall be deemed to have been completed where a check has been completed on or after the creation day in relation to each historic hereditament; and

(b) for the purpose of these Regulations a check is completed in relation to a new hereditament on—

(i) the date on which the VO serves a notice under regulation 4F(1) in respect of the final historic hereditament; or

(ii) the date on which the check in respect of the final historic hereditament is taken to be completed under regulation 4F(3).

(3) In paragraph (2)(b), "final historic hereditament" means the final historic hereditament in respect of which a check has been completed as mentioned in paragraph (2)(a).".

PART 5

Amendment of the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009

Amendment of the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009

13.—(1) The Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009(**a**) are amended as follows.

(2) In paragraph 7(3) of Schedule 2 (transfer of BRS revenues: billing authorities which are not levying authorities) for "31st May" substitute "30th April".

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

Rishi Sunak
Parliamentary Under Secretary of State
Ministry of Housing, Communities and Local Government

19th November 2018

(**a**) S.I. 2009/2543. There are amendments which are not relevant to this instrument.

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") and modify the application of those Regulations in certain cases. The Regulations also amend the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009 (S.I. 2009/2543).

Part 2 of these Regulations provide for a new ground of proposal to alter a valuation list where two or more hereditaments should be shown as one hereditament as a result of amendments made to the Local Government Finance Act 1988 by section 1 of the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018. Those amendments provide for circumstances where two or more hereditaments are to be treated as one hereditament for the purposes of non-domestic rating.

Part 3 extends the period within which a proposal to alter a valuation list in respect of certain nursery ground hereditaments may be made, as a result of amendments made to the Local Government Finance Act 1988 by section 1 of the Non-Domestic Rating (Nursery Grounds) Act 2018.

Part 4 makes provision for cases where checks of information about certain historic hereditaments are made by a Valuation Officer and subsequent to these checks a new hereditament is created.

Part 5 amends the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009 to change the date by which billing authorities are required to submit final returns of the amount they have collected by way of business rate supplement.

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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£6.90

UK201811191002 11/2018 19585

http://www.legislation.gov.uk/id/uksi/2018/1193

ISBN 978-0-11-117488-3

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