EXPLANATORY MEMORANDUM TO

THE VALUATION TRIBUNAL FOR ENGLAND (MEMBERSHIP AND TRANSITIONAL PROVISIONS) (AMENDMENT) REGULATIONS 2009

2009 No. 2613

1. This Explanatory Memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations ("the Amending Regulations") amend the Valuation Tribunal for England (Membership and Transitional Provisions) Regulations 2009 (S.I. 2009/2267) ("the Membership Regulations"), which are connected with the coming into force on 1st October 2009 of provisions of the Local Government and Public Involvement in Health Act 2007 that transfer the jurisdiction of the 56 current valuation tribunals in England to the Valuation Tribunal for England ("the VTE").

2.2 The amendment corrects an error in regulation 5(1)(b) of the Membership Regulations. As currently drafted, members and staff of the Valuation Tribunal Service, their spouse and civil partners are disqualified for membership of the VTE. The amendment limits the disqualification to members of the VTE's staff and their spouses or civil partners.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Department regrets that it has become necessary to amend the Membership Regulations so soon after their making. The effect of regulation 5(1)(b) had not been appreciated fully until last week, when it was realised that the terms in which the disqualification for membership of the VTE had been expressed were inconsistent with the requirements of paragraph 1(1A) and (3)(a) of Schedule 4 to the Local Government Act 2003 (c.26) ("the 2003 Act"). Schedule 4 was amended by paragraph 13 of Schedule 16 to the Local Government and Public Involvement in Health Act 2007 (c.28) ("the 2007 Act"). New paragraph 1(1A) requires the Secretary of State to appoint the President of the VTE as one of the members of the Valuation Tribunal Service ("VTS"). The effect of the amended paragraph 1(3)(a) is to require the majority of the VTS to consist of senior members of the VTE (the President, the Vice-Presidents and the members of the panel of chairmen; see the amendment made by paragraph 13(6) of Schedule 16 to the 2007 Act). The effect of regulation 5(1)(b) of the Membership Regulations as made is to disqualify for membership of the VTE persons who are members of the VTS. It is therefore necessary to amend regulation 5(1)(b) so that it is consistent with paragraph 1(1A) and (3)(a) of Schedule 4 to the 2003 Act.

3.2 The Membership Regulations come into force on 30th September 2009, the VTE is fully established and operational on 1st October and regulation 5(1)(b) becomes relevant on 2nd October.

3.3 The Joint Committee will understand from paragraphs 3.1 and 3.2 why it is essential that the Amending Regulations come into force no later than 2nd October 2009. The Department regrets that it has been unable to comply with the 21-day rule on this occasion.

3.4 The Amending Regulations are being issued free of charge to all known recipients of the Membership Regulations.

4. Legislative Context

4.1 Part 13 of, and Schedule 15 to, the Local Government and Public Involvement in Health Act 2007 (c.28) ("the 2007 Act") provide for the transfer of jurisdiction relating to certain council tax and non-domestic rating matters from the 56 existing valuation tribunals in England to the Valuation Tribunal for England.

4.2 The transfer of jurisdiction is achieved by the commencement on 1st October 2009 of paragraph A2 of Schedule 11 to the Local Government Finance Act 1988 ("the 1988 Act"), which was inserted by paragraphs 1 and 2 of Schedule 15 to the 2007 Act. The abolition of the existing tribunals is effected by the commencement on 1st October 2009 of section 219 of the 2007 Act. These commencements are made by article 6 of S.I. 2008/3110.

4.3 The membership of the VTE is dealt with in paragraph A4 of Schedule 11 to the 1988 Act, inserted by paragraphs 1 and 2 of Schedule 15 to the 2007 Act. The President of the VTE and four Vice-Presidents have been appointed under paragraph A4. Section 220(2) and (3)(a) of the 2007 Act enables the Secretary of State to make provision in regulations for members of the existing English valuation tribunals to become members of the VTE. Such provision is made by regulations 2(1) and 3(1) of the Membership Regulations.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 On 1st October 2009, the VTE will be fully established and will take over the jurisdiction of the current 56 separately constituted valuation tribunals in England, which will be abolished.

7.2 The background to the Amending Regulations is explained in paragraphs 3.1 and 3.2.

8. Consultation outcome

8.1 There has been no consultation in respect of the Amending Regulations.

9. Guidance

9.1 None is to be issued.

10. Impact

10.1 The Amending Regulations have no impact on business, charities or voluntary bodies.

10.2 An Impact Assessment has not been prepared for the Amending Regulations.

11. Regulating small business

11.1 The Amending Regulations do not apply to small business.

12. Monitoring & review

12.1 While it has no current plans to do so, the Government will continue to keep under review whether the VTE and the VTS should at some stage be absorbed within the First-Tier Tribunal and the Tribunal Service respectively.

13. Contact

Wendy McGregor at the Department for Communities and Local Government Tel: 020 7944 5079 or email: Wendy.mcgregor@communities.gsi.gov.uk can answer any queries regarding the instrument to which this memorandum relates.