

**EXPLANATORY MEMORANDUM TO THE
NON-DOMESTIC RATING (MATERIAL DAY FOR LIST
ALTERATIONS)(AMENDMENT)(ENGLAND) REGULATIONS 2005**

2005 No. 658

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations make provision in relation to the day that is to be treated as the material day for purposes of alterations made to a local or central rating list .

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

None.

4. Legislative Background

These Regulations are made under section 143(1) and (2) of, and paragraph 2(6A) of Schedule 6 to, the Local Government Finance Act 1988.

5. Extent

This instrument applies to England only.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (the 1992 Regulations) determine the day (“material day”) on which the matters set out in paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988 have to be taken into account when carrying out a valuation for rating purposes. These matters broadly concern the physical state of the property and its surroundings.

7.2 At present, the 1992 Regulations provide that the material day is generally the day on which the event giving rise to the valuation took place. However, for material changes of circumstances during the life of the list, the material day is fixed as the day that either the Valuation Officer (VO) alters the list, or a proposal is made, as appropriate. This has given rise to difficulty where at the time the proposal is made or the list is altered, the circumstances affecting the property have changed again.

7.3 For example, an alteration by the VO to reflect the demolition of significant buildings within a property on 1 May 2004 that is made after a further, smaller demolition on 1 October 2004 would be limited to the date of the latest change on 1 October because the material day is after this later change and the facts on that day must be reflected.

- 7.4 ODPM announced in October 2004 that it proposed consulting on a package of measures to reduce the number of proposals made to the Valuation Office Agency, to improve the quality of information submitted in support of proposals and to tidy up and clarify some elements of the existing Regulations. Among the proposals in the consultation paper that followed in January 2005 was an amendment to the 1992 Regulations.
- 7.5 The consultation paper proposed that the material day for alterations by the VO should be the day of the event as long as this is reasonably ascertainable. For alterations pursuant to proposals, the material day for material changes of circumstance would remain the date the proposal is made. The ratepayer is normally in the best position to be aware of changes that may affect the value so that a proposal may be made in good time. This will prevent spurious proposals being made long after the purported event has ceased, but where the date and facts are known, the VO will be able to make the relevant alteration notwithstanding the absence of an appropriate proposal.
- 7.6 The consultation exercise attracted 57 responses, mainly from rating professionals, business representatives and local authorities. There was a mixed response to this proposal. Some felt that it would enable the rating list to correctly reflect the history of a hereditament and would be more transparent to ratepayers, whereas others thought that there should be a limit on how far back the VO should be able to go. Some respondents agreed with the proposed amendment, but felt that in the interests of equity, the provision should be extended to apply also in respect of proposals made by interested persons.
- 7.7 Despite these representations, ODPM intends to proceed with the amendment proposed in the consultation paper. The extension of the VO's ability through the Material Day Regulations to correct the list retrospectively will ensure that the lists are more accurate without creating an opportunity for spurious proposals to be made relating to long-gone events. ODPM does not consider this to be a matter where the ratepayer needs to be on an equal footing with the VO, as the VO is a statutory officer with a duty to maintain the list and this change will enable him to do so more effectively.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

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