

2008 No. 2333

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Communications Hereditaments)
(Valuation, Alteration of Lists and Appeals and Material Day)
(England) Regulations 2008**

<i>Made</i>	- - - -	<i>28th August 2008</i>
<i>Laid before Parliament</i>		<i>4th September 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 55(2), (4) and (6), 143(1) and (2) and 146(6) of, and paragraph 2(6A) and (8) of Schedule 6 to, the Local Government Finance Act 1988(a), makes the following Regulations:

PART 1

Preliminary

Citation, application and commencement

1. These Regulations, which apply to England only, may be cited as the Non-Domestic Rating (Communications Hereditaments) (Valuation, Alteration of Lists and Appeals and Material Day) (England) Regulations 2008 and shall come into force on 1st October 2008.

Interpretation

2. In these Regulations—

“1988 Act” means the Local Government Finance Act 1988;

“ALA Regulations” means the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005(b);

“BT” means British Telecommunications plc;

“Central List Regulations” means the Central Rating List (England) Regulations 2005(c);

(a) 1988 c. 41. Section 55(4) and paragraph 2(8) of Schedule 6 were amended, and paragraph 2(6A) of Schedule 6 was inserted, by paragraphs 30(2), 38(8) and 38(6) respectively of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): *see* the reference to the Local Government Finance Act 1988 in Schedule 1. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(b) S.I. 2005/659, to which there are amendments not relevant to these Regulations.

(c) S.I. 2005/551, amended by S.I. 2008/429; there are other amending instruments but none is relevant.

“fully unbundled local loop” means an unbundled local loop which BT has let or licensed to any person for all uses that comprise the monitoring, processing or transmission of communications or other signals for the provision of electronic communications services;

“the hereditament” means the hereditament described in regulation 8(1) of the Central List Regulations (BT’s central rating list hereditament); and

“unbundled local loop” has the meaning given by regulation 8(6) of the Central List Regulations.

PART 2

Valuation

Valuation of certain communications hereditaments

3. The letting or licensing by BT to any person of a fully unbundled local loop shall be assumed for the purpose of valuing the hereditament pursuant to paragraph 2(5) or (6) of Schedule 6 to the 1988 Act (non-domestic rating: valuation) to be a matter affecting the physical state or physical enjoyment of the hereditament.

PART 3

Alteration of Lists and Appeals

Material change of circumstances

4.—(1) A proposal to alter the rateable value shown for the hereditament in a central rating list compiled on or after 1st April 2005 may be made under regulation 4(1)(b) (circumstances in which proposals may be made) and Part 3 (alteration of central rating lists) of the ALA Regulations as a consequence of the letting or licensing of a fully unbundled local loop by BT to any person.

(2) In relation to such a proposal, regulation 4(1)(b) shall have effect as if “material change of circumstances” included the matter assumed by regulation 3 of these Regulations to affect the hereditament’s physical state or the physical enjoyment of it for the purpose of valuing it pursuant to paragraph 2(5) or (6) of Schedule 6 to the 1988 Act.

Modification of regulation 6 of the ALA Regulations

5. Where a proposal is made pursuant to regulation 4(1), regulation 6(1)(e)(ii) (information to accompany proposal) of the ALA Regulations shall have effect as if it also required the inclusion of a statement specifying the number of fully unbundled local loops that are comprised in the hereditament as at the effective date proposed in that proposal.

PART 4

Material Day

Material day for valuation

6. Regulation 3(7)(b)(i) of the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992(a) (material day for list alterations made in pursuance of a proposal) shall have

(a) S.I. 1992/556, amended by S.I. 2005/658; there are other amending instruments but none is relevant.

effect, in relation to a proposal made pursuant to regulation 4(1), as if the material day in relation to any particular fully unbundled local loop were the day on which BT let or licensed it.

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

28th August 2008

Iain Wright
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The valuation of non-domestic hereditaments for the purposes of rates is governed by Schedule 6 to the Local Government Finance Act 1988 (“the 1988 Act”). The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 give ratepayers the right in certain circumstances to make a proposal to a valuation officer that the rateable value shown for their hereditament in a rating list should be changed. The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 govern the day by reference to which certain matters relating to the hereditament should be considered for the purposes of valuation.

These Regulations will allow BT to make a proposal to alter the rateable value of its hereditament as a consequence of the full unbundling of local loops. Fully unbundled local loops are the single pair of copper wires that connect a customer’s premises to the local telephone exchange through which the customer is receiving both telephone and broadband services. They comprise part of BT’s hereditament by virtue of regulation 8 of the Central Rating List (England) Regulations 2005.

The Regulations will apply in relation to BT’s entry in the central rating list that came into force on 1st April 2005 and subsequent rating lists, with the effect that a proposal can be made with respect to entries from 1st April 2005 onwards. The power to make regulations containing provision as to the day from which an alteration of a list is to have effect, including provision that the alteration is to have retrospective effect, is in section 55(6) of the 1988 Act.

When a proposal is made as a result of these Regulations, it will be for the valuation officer to assess whether the full unbundling of local loops has had any impact on the rateable value of BT’s hereditament.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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