

2009 No. 2269

COUNCIL TAX, ENGLAND

RATING AND VALUATION, ENGLAND

The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

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The Secretary of State, in exercise of the powers conferred by sections 55(2) to (6) and (7A) and 143(1) and (2) of, and paragraphs A3(2), A19, 8, 11, 12, 15 and 16 of Schedule 11 to the Local Government Finance Act 1988(a), makes the following Regulations:

PART 1

INTRODUCTION

Citation, application and commencement

1. These Regulations, which apply in England only, may be cited as the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and shall come into force on 1st October 2009.

Interpretation: general

2.—(1) In these Regulations—

“the 1992 Act” means the Local Government Finance Act 1992(b);

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

“appeal”, unless the context otherwise requires, means an appeal under—

(a) section 16 of the 1992 Act (appeals: general) (in these Regulations called a “section 16 appeal”);

(b) regulation 7 or 10 of the CT Regulations (in these Regulations called a “CT appeal”);

(c) regulation 8 or 13 of the NDR Regulations (in these Regulations called a “NDR appeal”);

(d) paragraph 4 of Schedule 4A(c) to the 1988 Act as it applies for the purposes of—

(i) Part 3 of the 1988 Act (non-domestic rating); and

(ii) Part 1 of the 1992 Act (council tax; England and Wales);

(e) paragraph 5C(d) of Schedule 9 to the 1988 Act (in these Regulations called an “appeal against imposition of a NDR penalty”); or

(f) paragraph 3 of Schedule 3 to the 1992 Act (in these Regulations called an “appeal against imposition of a CT penalty”);

“appeal against a completion notice”, except in regulations 42(1), 43(1) and 44(2)(c), means an appeal mentioned in paragraph (d) of the definition of “appeal”;

“appellant”, unless the context otherwise requires, means—

(a) a person who makes a section 16 appeal;

(b) a person who makes a CT appeal or a NDR appeal; or

(c) where a person has been substituted under regulation 11(1), that person;

“central list” means the central non-domestic rating list;

(a) 1988 c.41. Section 55(7A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 30(5). Section 55 was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 16, paragraphs 2 and 3. Schedule 11 was amended by the Local Government and Public Involvement in Health Act 2007, Schedule 15; see paragraphs 1 to 3 and 11 to 17 of Schedule 15 for amendments relevant to England.

(b) 1992 c.14.

(c) Schedule 4A was inserted by the Local Government and Housing Act 1989, Schedule 5, paragraph 36 and amended by the Local Government and Public Involvement in Health Act 2007, Schedule 16, paragraphs 2 and 4.

(d) Paragraph 5C was inserted by the Local Government Act 2003 (c.26), section 72(4) and amended by the Local Government and Public Involvement in Health Act 2007, Schedule 16, paragraphs 2 and 5.

“company”, “holding company” and “subsidiary” have the meanings given by the Companies Act 2006(a);

“completion notice” means a notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 3 of the 1988 Act or Part 1 of the 1992 Act (council tax; England and Wales);

“competent appellant”, in relation to a CT proposal, a CT appeal or the withdrawal of a CT appeal, means a person who has appealed against the LO’s decision in respect of the proposal or appeal (whether or not that person’s appeal proceeds);

“competent party”, in relation to a CT proposal, a CT appeal or the withdrawal of a CT appeal, means an interested person (“IP”) who serves a notice on the LO and the VTE in accordance with regulation 27 of these Regulations (competent party to appeal);

“CT Regulations” means the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009(b);

“IP” (interested person)—

- (a) in relation to a dwelling and a day, means—
 - (i) the owner;
 - (ii) where subsection (3) of section 8 of the 1992 Act has effect on the day, and regulations provide for that subsection to have effect as if, for the reference to the owner, there were substituted a reference to another person, that other person;
 - (iii) in relation to an exempt dwelling or a dwelling in respect of which the amount set under section 30 of the 1992 Act for the financial year is nil, any person (other than the owner) who would be liable to pay council tax if the dwelling were not an exempt dwelling or, as the case may be, the amount so set were other than nil; and
 - (iv) any other person who is a taxpayer in respect of the dwelling;
- (b) in relation to a hereditament which forms part of the Crown Estate and is held by the Crown Estate Commissioners under their management within the meaning of section 1 of the Crown Estate Act 1961(c), means the Crown Estate Commissioners;
- (c) in relation to any other hereditament, means—
 - (i) the occupier;
 - (ii) any other person (other than a mortgagee not in possession) having in any part of the hereditament either a legal estate or an equitable interest such as would entitle him (after the cessation of any prior interest) to possession of the hereditament or any part of it; and
 - (iii) any person having a qualifying connection with the occupier or a person described in (ii);

“list”—

- (a) in relation to a section 16 appeal or a CT appeal, means a valuation list compiled under section 22 of the 1992 Act;
- (b) in relation to a NDR appeal, means, as the circumstances require, the central list or the local list;

“LO” (listing officer), in relation to a list, means the officer charged with its maintenance under section 22 of the 1992 Act;

“local list” means a local non-domestic rating list;

(a) 2006 c.46. For the definition of “company” *see* section 1. For the definitions of “subsidiary” and “holding company” *see* section 1159 and Schedule 6.
(b) S.I. 2009/2270.
(c) 1961 c.55.

“NDR Regulations” means the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(a);

“proposal” means a proposal for the alteration of a list;

“proposer” means the person making a proposal;

“qualifying connection” has the meaning given in paragraph (2);

“ratepayer”, in relation to a hereditament, means the occupier or, if the hereditament is not occupied, the owner;

“relevant authority”, in relation to a dwelling or a hereditament, means the billing authority in whose area the dwelling or hereditament is situated;

“taxpayer”, in relation to a dwelling and a day, means the person who is liable (whether solely or jointly and severally) to pay council tax in respect of the dwelling and the day.

“VO” means valuation officer(b);

“VTE” means the Valuation Tribunal for England;

“VTE panel”, in relation to an appeal, means the members of the VTE selected to deal with the appeal in accordance with tribunal business arrangements(c);

“VTE President” means the person who is for the time being the President of the VTE; and

“VTS” means the Valuation Tribunal Service(d).

(2) A person shall be treated as having a qualifying connection with another—

(a) where both persons are companies, and—

(i) one is a subsidiary of the other, or

(ii) both are subsidiaries of the same company; or

(b) where only one person is a company, the other person (the “second person”) has such an interest in that company as would, if the second person were a company, result in its being the holding company of the other.

(3) Any reference in these Regulations to a party—

(a) in relation to a section 16 appeal, means the appellant and the billing authority(e);

(b) in relation to a CT appeal, includes the appellant and the LO and—

(i) where the appeal is under regulation 10 of the CT Regulations—

(aa) the taxpayer for the time being as regards any dwelling to which the decision notice relates;

(bb) any competent appellant; and

(cc) any competent party;

(ii) where the appeal is proceeding by virtue of regulation 22 of these Regulations (CT appeals: new appellant’s appeal), includes the appellant and the LO, and—

(aa) any other person who, in response to the request in the VTE’s notice under regulation 23(1) (CT appeals: other parties to new appeal), has within the period specified in the notice served a notice informing the VTE of that person’s wish to be a party; and

(bb) any other person who becomes a competent party after the date on which the VTE’s notice was served under regulation 23(1)

(a) S.I. 2009/2268.

(b) For the meaning of “valuation officer” see section 67(2) of the Local Government Finance Act 1988 (c.41).

(c) See paragraph A17 of Schedule 11 to the Local Government Finance Act 1988, which was inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 15, paragraphs 1 and 2.

(d) The Valuation Tribunal Service is the body corporate established by section 105 of the Local Government Act 2003 (c.26).

(e) For the definition of “billing authority” see section 144(2) of the Local Government Finance Act 1988, substituted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 81(1) (“the 1992 Act”). In Part I of the 1992 Act, “billing authority” has the meaning given in section 1(2); see section 69(1).

- (c) in relation to an appeal against imposition of a CT penalty, means the appellant and the authority which imposed the penalty;
- (d) in relation to a NDR appeal or an appeal against imposition of a NDR penalty, means the appellant and the VO and includes—
 - (i) where the appeal is under regulation 8, 13 or 19 of the NDR Regulations—
 - (aa) a person whose agreement is required under regulation 12 of those Regulations (agreed alterations following proposals); and
 - (bb) any other person who has been a ratepayer in relation to the hereditament since the proposal was made and who has notified the VO in writing before the hearing, or before determination on the basis of written representations, that the person wishes to be a party to the appeal;
 - (ii) where the appeal is against a completion notice, the relevant authority;
- (e) if the proceedings on an appeal have been concluded, means a person who was a party when the VTE finally disposed of all issues in the proceedings.

Discharge of VTE’s functions: general

3. In giving effect to these Regulations and in exercising any of its functions under these Regulations, the VTE must have regard to—

- (a) dealing with appeals in ways which are proportionate to the importance of the appeal, the complexity of the issues, the anticipated costs and the resources of the parties;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the VTE effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

Arbitration

4.—(1) Where the persons mentioned in paragraph (2) agree in writing that a matter falling within the VTE’s jurisdiction is to be referred to arbitration, the matter shall be so referred(a).

(2) The persons are those who, if the matter were to be the subject of an appeal to the VTE, would be the parties to the appeal.

(3) Unless the VTE considers that there is good reason not to do so, where at any time before the determination of an appeal by the VTE, the parties to the proceedings on an appeal agree in writing that any matter arising in the proceedings is to be referred to arbitration, the matter shall be so referred.

(4) In any arbitration under this regulation the award may include any order which could have been made by the VTE in relation to the matter; and paragraph 9 of Schedule 11 to the 1988 Act shall apply to such an order as it applies to an order recorded under these Regulations.

PART 2

APPEALS: FUNCTIONS OF THE VTE AND GENERAL PROVISIONS

Arrangements for appeals

5.—(1) It shall be the duty of the VTE President to ensure that arrangements are made for appeals to be determined in accordance with the following provisions of these Regulations.

(a) See section 94 of the Arbitration Act 1996 (c.23).

(2) The VTE shall not deal with an appeal under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations until any appeal under regulation 7 of the CT Regulations or regulation 8 of the NDR Regulations (as the case may be) in respect of the same proposal has been decided.

(3) Where two or more appeals relating to—

- (a) the same dwelling or dwellings are referred under regulation 10 of the CT Regulations; or
- (b) the same hereditament or hereditaments are referred under regulation 13 of the NDR Regulations,

the order in which the appeals are dealt with shall be the order in which the alterations in question would, but for the disagreements which occasion the appeals, have taken effect.

Appeal management powers

6.—(1) Subject to the provisions of Part 1 of Schedule 11 to the 1988 Act^(a) and of these Regulations, the VTE may regulate its own procedure.

(2) The VTE may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the VTE may—

- (a) extend or shorten the time for complying with any regulation or direction;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat an appeal as a lead appeal (whether in accordance with regulation 7 or otherwise);
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, evidence, information, or submissions to the VTE or a party;
- (e) deal with an issue in proceedings as a preliminary issue;
- (f) hold a hearing to consider any matter, including a case management issue;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay proceedings; or
- (k) suspend the effect of its own decision pending the determination by the Upper Tribunal^(b) or a court of an application for permission to appeal against, and any appeal against or review of, that decision.

Lead appeals

7.—(1) This regulation applies if—

- (a) two or more appeals have been made to the VTE—
 - (i) under regulation 10 of the CT Regulations (“related CT appeals”) or
 - (ii) under regulation 13 of the NDR Regulations (“related NDR appeals”);
- (b) as regards each of the related CT or NDR appeals the VTE has not made a decision disposing of the proceedings; and
- (c) the related CT or NDR appeals give rise to common or related issues of fact or law.

(2) The VTE may give a direction—

^(a) See paragraphs 1 and 2 of Schedule 15 to the Local Government and Public Involvement in Housing Act 2007 (c.28).
^(b) The Upper Tribunal has replaced the Lands Tribunal; see S.I. 2009/1307.

- (a) specifying one or more of the related CT or NDR appeals as a lead appeal or lead appeals; and
 - (b) staying the other related CT or NDR appeals.
- (3) When the VTE makes a decision in respect of the common or related issues—
- (a) the VTE must send a copy of that decision to each party in each of the related CT or NDR appeals; and
 - (b) subject to paragraph (4), that decision shall be binding on each of those parties.
- (4) Within one month after the date on which the VTE sends a copy of the decision to a party under paragraph (3)(a), that party may apply in writing for a direction that the decision does not apply to, and is not binding on the parties to, a particular related CT or NDR appeal.
- (5) The VTE must give directions in respect of appeals which are stayed under paragraph (2)(b), providing for the disposal of, or further directions in, those appeals.
- (6) If before the VTE makes a decision in respect of the common or related issues—
- (a) the lead appeal is withdrawn; or
 - (b) where there is more than one lead appeal, all of the lead appeals are withdrawn,
- the VTE must give directions as to whether—
- (i) another appeal or other appeals are to be specified as a lead appeal or appeals; and
 - (ii) any direction affecting the related CT or NDR appeals should be set aside or amended.

Procedure for applying for and giving directions

- 8.**—(1) The VTE may give a direction on the application of one or more of the parties or on its own initiative.
- (2) An application for a direction may be made—
- (a) by sending or delivering a written application to the VTE; or
 - (b) orally during the course of a hearing.
- (3) An application for a direction must state the reason for making that application.
- (4) Unless the VTE considers that there is good reason not to do so, the VTE must send written notice of any direction to every party and to any other person affected by the direction.
- (5) If a party or any other person sent notice of a direction under paragraph (4) wishes to challenge it, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

Failure to comply with Regulations, etc

- 9.**—(1) An irregularity resulting from failure to comply with any requirement in these Regulations or a direction does not of itself render void the proceedings or any step taken in the proceedings.
- (2) If a party has failed to comply with a requirement in these Regulations or a direction, the VTE may take such action as it considers just, which may include—
- (a) waiving the requirement;
 - (b) requiring the failure to be remedied; or
 - (c) exercising the power under regulation 8.

Striking out proceedings

- 10.**—(1) The proceedings, or the appropriate part of them, will automatically be struck out if the appellant has failed to comply with a direction that stated that failure by a party to comply with the direction would lead to the striking out of the proceedings or that part of them.

(2) The VTE must strike out the whole or part of the proceedings if the VTE does not have jurisdiction in relation to the proceedings or that part of them.

(3) The VTE may strike out the whole or a part of the proceedings if—

- (a) the appellant has failed to comply with a direction that stated that failure by the appellant to comply with the direction could lead to the striking out of the proceedings or that part of them;
- (b) the appellant has failed to co-operate with the VTE to such an extent that the VTE cannot deal with the proceedings fairly and justly; or
- (c) the VTE considers there is no reasonable prospect of the appellant's appeal, or part of it, succeeding.

(4) The VTE may not strike out the whole or part of the proceedings under paragraph (2) or (3)(b) or (c) without first giving the appellant an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings, or part of them, have been struck out under paragraph (1) or (3)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the VTE within one month after the date on which the VTE sent notification of the striking out to the appellant.

(7) This regulation applies to a party to the proceedings other than the appellant as it applies to an appellant except that—

- (a) a reference to the striking out of the proceedings is to be read as a reference to the barring of that other party from taking further part in the proceedings; and
- (b) a reference to an application for the reinstatement of proceedings which have been struck out is to be read as a reference to an application for the lifting of the bar on that other party from taking further part in the proceedings.

(8) If a party other than the appellant has been barred from taking further part in the proceedings under this regulation and that bar has not been lifted, the VTE need not consider any response or other submission made by that party.

Substitution and addition of parties

11.—(1) The VTE may give a direction substituting a party if—

- (a) the wrong person has been named as a party; or
- (b) the substitution has become necessary because of a change of circumstances since the start of proceedings.

(2) The VTE may give a direction adding a person to the proceedings as a party.

(3) If the VTE gives a direction under paragraph (1) or (2), it may give such consequential directions as it considers appropriate.

No power to award costs

12. The VTE may not make any order in respect of costs.

Representatives

13.—(1) A party may appoint a representative (whether a legal representative or not) to represent that party in the proceedings, but the representative must not be a member of the VTE or the VTS or an employee of the VTS.

(2) If a party appoints a representative, that party (or the representative if the representative is a legal representative) must send or deliver to the VTE written notice of the representative's name and address unless the representative's name and address have already been given to the VO or, as the case may be, the LO.

(3) If the VTE receives notice that a party has appointed a representative under paragraph (2), it must send a copy of that notice to each other party.

(4) Anything permitted or required to be done by a party under these Regulations or a direction may be done by the representative of that party, except signing a witness statement.

(5) A person who receives due notice of the appointment of a representative—

(a) must provide to the representative any document which is required to be provided to the represented party, and need not provide that document to the represented party; and

(b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or the represented party.

(6) At a hearing a party may be accompanied by another person, other than a member of the VTE or the VTS or an employee of the VTS, whose name and address has not been notified under paragraph (2); and that person may act as a representative or otherwise assist in presenting the party's case at the hearing.

(7) Paragraphs (2) to (5) do not apply in relation to a person who accompanies a party under paragraph (6).

Calculating time

14.—(1) An act required by these Regulations or a direction to be done on or by a particular day must be done by 5pm on that day.

(2) If the time specified by these Regulations or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this regulation “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Bank and Financial Dealings Act 1971(a).

Sending and delivery of documents

15.—(1) Any document to be provided to the VTE under these Regulations or a direction must be—

(a) sent by pre-paid post or delivered by hand to the address specified for the proceedings;

(b) sent by fax to the number specified for the proceedings; or

(c) sent or delivered by such other method and to such address as may be agreed by the VTE and the person by whom the documents are to be sent or delivered.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.

(3) If a party informs the VTE and all other parties that a particular form of communication (other than pre-paid post or delivery by hand) should not be used to provide documents to that party, that form of communication must not be used.

(4) If the VTE or a party sends a document to a party or the VTE by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient.

(5) A request under paragraph (4) must be made as soon as reasonably practicable after the recipient receives the document electronically.

(6) The VTE and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

(a) 1971 c.80.

Use of documents and information

- 16.**—(1) The VTE may make an order prohibiting the disclosure or publication of—
- (a) specified documents or information relating to the proceedings; or
 - (b) any matter likely to lead members of the public to identify any person whom the VTE considers should not be identified.
- (2) The VTE may give a direction prohibiting the disclosure of information to a person if—
- (a) the VTE is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and
 - (b) the VTE is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.
- (3) If a party (“the first party”) considers that the VTE should give a direction under paragraph (2) prohibiting the disclosure of information to another party (“the second party”), the first party must—
- (a) exclude the relevant document or information from any documents that will be provided to the second party; and
 - (b) provide to the VTE the excluded document or information, and the reason for its exclusion, so that the VTE may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).
- (4) The VTE must conduct proceedings as appropriate in order to give effect to a direction under paragraph (2).
- (5) If the VTE gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the VTE may give a direction that the documents or information be disclosed to that representative if the VTE is satisfied that—
- (a) disclosure to the representative would be in the interests of the party; and
 - (b) the representative will act in accordance with paragraph (6).
- (6) Documents or information disclosed to a representative in accordance with a direction under paragraph (5) must not be disclosed either directly or indirectly to any other person without the VTE’s consent.

Evidence and submissions

- 17.**—(1) The VTE may give directions as to—
- (a) issues on which it requires evidence or submissions;
 - (b) the nature of the evidence or submissions it requires;
 - (c) whether any parties are permitted or required to provide expert evidence;
 - (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
 - (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
 - (i) orally at a hearing; or
 - (ii) by written submissions or witness statement; and
 - (f) the time at which any evidence or submissions are to be provided.
- (2) The VTE may—
- (a) admit evidence whether or not the evidence would be admissible in a civil trial in England; or
 - (b) exclude evidence that would otherwise be admissible where—
 - (i) the evidence was not provided within the time allowed by a direction;

- (ii) the evidence was otherwise provided in a manner that did not comply with a direction; or
 - (iii) it would otherwise be unfair to admit the evidence.
- (3) Paragraph (4) applies to information—
- (a) supplied in pursuance of paragraph 5 of Schedule 9 to the 1988 Act, section 27(1) or (3) of the 1992 Act or regulation 24 of the NDR Regulations; and
 - (b) information contained in—
 - (i) any document which, having been produced to the Commissioners for Her Majesty’s Revenue and Customs in pursuance of section 28 of the Finance Act 1931(a) or furnished to them in pursuance of Schedule 2 to that Act, is for the time being in their possession or under their control; or
 - (ii) any land transaction return within the meaning of Part 4 (stamp duty land tax) of the Finance Act 2003(b).
- (4) Information to which this paragraph applies shall not be used in any relevant proceedings by a billing authority(c), a LO or a VO unless—
- (a) not less than two weeks’ notice, specifying in relation to any information to be so used the documents or other media in or on which that information is held and the dwelling or hereditament to which it relates, has previously been given to every other party to the proceedings; and
 - (b) any person who has given not less than 24 hours’ notice of his intention to do so has been permitted, at any reasonable time—
 - (i) to inspect the documents or other media in or on which such information is held; and
 - (ii) to make a copy (other than a photographic copy) of, or of any extract from, any document containing such information.
- (5) Subject to paragraph (7), any person to whom notice relating to any dwelling has been given under paragraph (4)(a) (“P”) may before the hearing serve notice on the LO specifying other dwellings as being dwellings which are comparable in character or otherwise relevant to P’s case, and requiring the LO—
- (a) to permit P at any reasonable time specified in the notice to inspect and (if P so desires) to make a copy (other than a photographic copy) of, or of any extract from, any document containing information to which this regulation applies which relates to those other dwellings and is in the possession of the LO; and
 - (b) to produce at the hearing or to submit to the tribunal such documents as before the hearing P has informed the LO that P requires.
- (6) Subject to paragraph (7), any person to whom notice relating to any hereditament has been given under paragraph (4)(a) (“P”) may before the hearing serve notice on the VO specifying other hereditaments as being hereditaments which are comparable in character or otherwise relevant to P’s case, and requiring the VO—
- (a) to permit P at any reasonable time specified in the notice to inspect and (if P so desires) to make a copy (other than a photographic copy) of, or of any extract from, any document containing information to which this regulation applies which relates to those other hereditaments and is in the possession of the VO; and
 - (b) to produce at the hearing or to submit to the tribunal such documents as before the hearing P has informed the VO that P requires.

(a) 1931 c.28. Section 28(3) was amended by S.I. 2003/2867. By virtue of sections 5 and 50 of the Commissioners for Revenue and Customs Act 2005 (c.11), the reference in section 28 of the 1931 Act is to be taken as a reference to Her Majesty’s Commissioners for Revenue and Customs.

(b) 2003 c.14. *See* sections 122 and 76(1). *See also* S.I. 2003/2837, to which there are amendments not relevant to these Regulations.

(c) For the definition of “billing authority” *see* section 144(2) of the Local Government Finance Act 1988 (c.41), substituted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 81(1) (“the 1992 Act”). In Part I of the 1992 Act, “billing authority” has the meaning given in section 1(2); *see* section 69(1).

(7) The number of dwellings or hereditaments specified in a notice under paragraph (5) or (6) shall not exceed four or, if greater, the number specified in the notice under paragraph (4)(a).

(8) Nothing in paragraph (5) or (6) shall be construed as requiring the making available for inspection or copying, or the production of, any document insofar as it contains information other than information which is reasonably required for the purposes of the relevant proceedings.

(9) Where P has given notice to the LO under paragraph (5) or to the VO under paragraph (6), and the LO or the VO refuses or fails to comply with the notice, P may apply to the VTE or, as the case may be, the arbitrator appointed to determine the appeal; and the VTE or the arbitrator may, if satisfied that it is reasonable to do so, direct the LO or the VO to comply with the notice as respects all the dwellings or hereditaments or such of them as the VTE or the arbitrator may determine.

(10) If any document required to be made available for inspection in accordance with paragraph (5) or (6) is not maintained in documentary form, the duty to make it so available is satisfied if a print-out, photographic image or other reproduction of the document which has been obtained from the storage medium adopted in relation to the document is made available for inspection.

(11) In paragraphs (4) and (8) “relevant proceedings” means any proceedings on or in consequence of an appeal under section 16 of the 1992 Act, the CT Regulations, the NDR Regulations and any proceedings on or in consequence of a reference to arbitration under regulation 4.

(12) The contents of a list may be proved by the production of a copy of it, or of the relevant part, purporting to be certified to be a true copy by the LO or the VO (as the case may be).

(13) The contents of a completion notice may be proved by the production of a copy of it purporting to be certified to be a true copy by the proper officer of the relevant authority.

Summoning of witnesses, and orders to answer questions or produce documents

18.—(1) On the application of a party or on its own initiative, the VTE may—

- (a) by summons require any person to attend as a witness at a hearing at the time and place specified in the summons;
- (b) order any person to answer any questions or produce any documents in that person’s possession or control which relate to any issue in the proceedings.

(2) A summons under paragraph (1) must—

- (a) give the person required to attend 14 days’ notice of the hearing or such shorter period as the VTE may direct; and
- (b) where the person is not a party, make provision for the person’s necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in England.

(4) A summons or order under this regulation must—

- (a) state that the person on whom the requirement is imposed may apply to the VTE to vary or set aside the summons or order if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons or order.

Withdrawals and deemed withdrawals

19.—(1) A party may give notice of the withdrawal of its appeal, or any part of it—

- (a) at any time before a hearing to consider the disposal of the proceedings (or, if the VTE disposes of the proceedings without a hearing, before that disposal), by sending or delivering to the VTE a written notice of withdrawal; or
- (b) orally at a hearing.

(2) Where a party gives notice of withdrawal at a hearing, the notice of withdrawal shall not take effect unless the VTE panel consents to the withdrawal.

(3) A party which has withdrawn its appeal may apply to the VTE for the appeal to be reinstated.

(4) An application under paragraph (3) must be made in writing and be received by the VTE within one month after—

- (a) the date on which the VTE received the notice under paragraph (1)(a); or
- (b) the date of the hearing at which the appeal was withdrawn orally under paragraph (1)(b).

(5) An appeal in relation to which a notice has been served on the VTE under paragraph (3)(a) of regulation 13 of the CT Regulations (post-appeal agreements) shall be treated as withdrawn on the date on which the notice is served on the VTE.

(6) Where, after an appeal has been made to the VTE under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations (disagreement as to proposed alteration), the LO or the VO alters the list in accordance with the proposal to which the appeal relates, the LO or the VO (as the case may be) shall notify the VTE of that fact; and the appeal shall be treated as withdrawn on the date on which the notice is served on the VTE.

(7) Where, following the initiation of—

- (a) an appeal against imposition of a CT penalty; or
- (b) an appeal against imposition of a NDR penalty,

the LO or the VO decides to remit the penalty, the LO or the VO (as the case may be) shall notify the VTE of that fact; and the appeal shall be treated as withdrawn on the date on which the notice is served on the VTE.

(8) The VTE must notify each party in writing of a withdrawal under this regulation; and where a withdrawal has effect by virtue of any of paragraphs (5) to (7), the VTE shall serve on the appellant and on every other party to the appeal a written notice confirming that the appeal has been withdrawn and the date on which it is treated as withdrawn.

(9) Where the VTE's notice under paragraph (8) relates to the withdrawal of a CT appeal, or any part of it, the notice must specify the date by which a party (other than the withdrawing party) may serve notice on the VTE under regulation 22(1).

(10) In paragraph (9) "withdrawing party" means a person who made an appeal under regulation 10 of the CT Regulations and serves a notice under paragraph (1) of this regulation.

(11) Where—

- (a) a further proposal is made under paragraph (3)(a) of regulation 7 of the CT Regulations (proposals treated as invalid) or paragraph (6)(a) of regulation 8 of the NDR Regulations (disputes as to validity of proposals);
- (b) the proposal in respect of which the invalidity notice was served ("the original proposal") is treated as withdrawn^(a); and
- (c) a disagreement as to the alteration which was the subject of the original proposal has been referred to the VTE under regulation 13 of the NDR Regulations (disagreement as to proposed alteration) as an appeal,

that appeal shall be treated as withdrawn.

(a) See regulation 8(8) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(S.I. 2009/2268) and regulation 7(5) of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2270).

PART 3

PROVISIONS RELEVANT ONLY TO COUNCIL TAX APPEALS

Interpretation of Part 3

20. In this Part—

“CT10 statement” means the written statement served by an appellant on the VTE in accordance with regulation 10(5) of the CT Regulations;

“withdrawing party” means a person who made an appeal under regulation 10 of the CT Regulations and serves a notice under regulation 19(1) of these Regulations.

Time limits

21.—(1) Paragraphs (2) to (5) are subject to paragraph (6).

(2) The VTE shall dismiss an appeal by a person in relation to whom the condition mentioned in section 16(7)(a) or (b) of the 1992 Act is fulfilled unless the appeal is initiated within two months of the date of service of the billing authority’s notice under that section.

(3) Where the condition mentioned in section 16(7)(c) of the 1992 Act is fulfilled, the VTE shall dismiss an appeal by an aggrieved person unless the appeal is initiated within four months of the date of service of the person’s notice under section 16(4).

(4) The VTE shall dismiss an appeal under paragraph 3 of Schedule 3 to the 1992 Act unless the appeal is initiated within two months of the date of service of written notice of the imposition of the penalty.

(5) The VTE shall dismiss an appeal against a completion notice unless the appeal is initiated within 28 days of the date of service of the notice.

(6) The VTE President may authorise an appeal to be entertained where the VTE President is satisfied that the failure of the person aggrieved to initiate the appeal as provided by this regulation has arisen by reason of circumstances beyond that person’s control.

CT appeals: new appellant’s appeal

22.—(1) Before the date specified, in accordance with regulation 19(9), in the VTE’s notice under regulation 19(8), a competent appellant or a competent party (“the new appellant”) may serve a written notice on the VTE stating—

(a) that the new appellant wishes to proceed with an appeal in relation to the same decision notice; and

(b) where the new appellant is not a competent appellant, the reasons for the new appeal.

(2) Where the VTE receives a notice under paragraph (1)—

(a) within the period of two weeks beginning on the day on which the notice was received, the VTE shall serve on the new appellant a written notice—

(i) stating the date of receipt of the new appellant’s notice; and

(ii) stating that the withdrawing party’s appeal is withdrawn; and

(b) (i) where the new appellant’s notice was the first notice under paragraph (1) received by the VTE in relation to the withdrawal, the notice under sub-paragraph (a) shall state that the new appellant’s appeal is proceeding;

(ii) in any other case, the notice under sub-paragraph (a) shall state that the new appellant’s appeal is not proceeding because an earlier new appeal is proceeding.

(3) Where the VTE receives a notice under paragraph (1) from more than one person in relation to the same withdrawal, the following paragraphs and regulation 23 shall apply as if references to the new appellant are references to the person whose notice the VTE receives first.

- (4) Where—
- (a) the new appellant is a competent appellant, the appeal already made under regulation 10 of the CT Regulations shall proceed as if any steps taken by the VTE in relation to the withdrawing party's appeal, other than steps under regulation 19 of these Regulations, had been taken in relation to the new appeal;
 - (b) the new appellant is not a competent appellant—
 - (i) the new appeal shall be deemed to have been made under regulation 10 of the CT Regulations;
 - (ii) the reasons for the new appeal shall be those included in the notice served under paragraph (1) of this regulation; and
 - (iii) the new appeal shall proceed as if any steps taken by the VTE in relation to the withdrawing party's appeal, other than steps under regulation 19, had been taken in relation to the new appeal.

CT appeals: other parties to a new appeal

23.—(1) As soon as reasonably practicable after receiving a notice under regulation 22(1), the VTE shall serve on the withdrawing party and every party to the withdrawing party's appeal (other than the new appellant) a written notice ("the VTE's notice")—

- (a) specifying that the withdrawing party's appeal is withdrawn and that the new appellant's appeal is proceeding;
 - (b) stating the new appellant's reasons for the appeal; and
 - (c) requesting the party (where the party is neither the LO nor the withdrawing party) to inform the VTE by written notice, within such period as is specified in the VTE's notice, being not less than 21 days from the date on which the VTE's notice is served, whether the party wishes to be a party to the proceedings on the new appellant's appeal.
- (2) Where the VTE receives a notice from a party under paragraph (1)(c), the VTE shall—
- (a) within the period of two weeks beginning on the day on which the VTE received it, serve on the party a written notice acknowledging receipt of it and specifying the date of receipt; and
 - (b) as soon as reasonably practicable serve a copy of the party's notice on the LO.

Procedure subsequent to the making of an appeal about the validity of the proposal

24. Where the VTE receives a copy of an invalidity notice together with a written statement from the proposer under paragraph (6) of regulation 7 of the CT Regulations, the VTE shall—

- (a) within the period of two weeks beginning on the day on which those documents were received, serve on the proposer a written notice acknowledging receipt of them and specifying the date of receipt; and
- (b) as soon as reasonably practicable serve a copy of the statement on the LO.

Procedure subsequent to the making of an appeal about the accuracy of the list

25.—(1) Where the VTE receives a copy of a decision notice together with a CT10 statement from an appellant, the VTE shall—

- (a) within the period of two weeks beginning on the day on which those documents were received, serve on the appellant a written notice acknowledging receipt of them and specifying the date of receipt;
- (b) where—
 - (i) the appellant is a competent appellant; and
 - (ii) the proposer appeals in relation to the same decision notice,

at the same time as serving the notice referred to in sub-paragraph (a) or as soon as reasonably practicable afterwards, serve on the appellant a written notice informing the appellant of the proposer's appeal and the effect of regulation 10(4) of the CT Regulations and regulation 22 of these Regulations; and

- (c) where—
 - (i) the appellant is a competent appellant; and
 - (ii) another competent appellant made an appeal in relation to the same decision notice before the appellant did so and that earlier appeal is proceeding,

at the same time as serving the notice referred to in sub-paragraph (a) or as soon as reasonably practicable afterwards, serve on the appellant a written notice informing the appellant of the other competent appellant's earlier appeal and the effect of regulation 10(4) of the CT Regulations and regulation 22 of these Regulations.

(2) Where the appeal is proceeding, the VTE shall, as soon as reasonably practicable—

- (a) serve a copy of the CT10 statement on the LO; and
- (b) serve on any person—
 - (i) who is a party to the appeal or then appears to the VTE to be an IP as regards any dwelling to which the decision notice relates (other than the appellant and the LO); and
 - (ii) whose name and address are included in the decision notice or the CT10 statement or are otherwise known to the VTE,

a written notice which includes the matters referred to in paragraph (3).

(3) The matters are—

- (a) the address of any dwelling to which the appeal relates;
- (b) the appellant's reasons for the appeal; and
- (c) the date on which the appeal was made.

Further procedure where the LO knows of other parties to the appeal or interested persons

26.—(1) Where, in relation to an appeal, the LO receives a copy of a CT10 statement from the VTE, the LO shall—

- (a) serve on the VTE a written notice of the name and address of any person who—
 - (i) is a party to the appeal; or
 - (ii) then appears to be an IP as regards any dwelling to which the decision notice relates, whose name and address the LO knows but which were not included in the decision notice or the CT10 statement; and
- (b) serve that notice as soon as reasonably practicable after becoming aware of that information.

(2) Where the VTE receives a notice in accordance with paragraph (1), as soon as reasonably practicable (where this has not already been done) the VTE shall serve, on any person whose name and address the LO included in the notice, a written notice which includes—

- (a) the address of any dwelling to which the appeal relates;
- (b) the appellant's reasons for the appeal; and
- (c) the date on which the appeal was made.

Competent party to appeal

27.—(1) This regulation applies where an IP, as regards any dwelling to which the decision notice relates—

- (a) wishes to be a party to any appeal made under regulation 10 of the CT Regulations (including any appeal which is proceeding by virtue of regulation 22 of these Regulations);
 - (b) is not already a party to the appeal;
 - (c) is not the proposer; and
 - (d) would have been competent to make the proposal, in relation to which the appeal relates, on the relevant date, which in this regulation is—
 - (i) the date on which the proposer appealed in accordance with regulation 10 of the CT Regulations; or
 - (ii) where the proposer has not appealed, the date on which a competent appellant appealed in accordance with that regulation or, if there is more than one competent appellant, the first date on which a competent appellant did so.
- (2) Within the period of three months beginning on the relevant date, the IP may serve a written notice on the VTE stating that the IP wishes to be a party to the appeal.
- (3) The IP shall include in the notice—
- (a) the address of the dwelling to which the decision notice relates; and
 - (b) the names and addresses of the IP, the proposer and the LO.
- (4) The VTE shall—
- (a) within the period of two weeks beginning on the day on which the VTE receives the IP's notice, serve on the IP a written notice acknowledging receipt of it and specifying the date of receipt; and
 - (b) as soon as reasonably practicable serve a copy of the IP's notice on the LO.

PART 4

PROCEEDINGS BEFORE THE VTE

CHAPTER 1

Before the hearing

Notices of appeal, etc

28.—(1) If an appellant provides notice of appeal against a completion notice or the imposition of a penalty to the VTE later than the time required by the CT Regulations or the NDR Regulations (as the case may be) or by an extension of time allowed under regulation 6(3)(a) (appeal management powers), the VTE must not admit the notice of appeal unless the VTE extends time for the notice of appeal under that provision.

(2) The VTE must acknowledge receipt of every notice of appeal within two weeks of its receipt and must send a copy of the notice of appeal and any accompanying documents to every party (other than the appellant) as soon as reasonably practicable after receiving the notice of appeal.

(3) Where a notice is received from a person who is an IP for the purposes of regulation 27(2), the VTE must acknowledge receipt of the notice and send a copy of it to the LO concerned.

CHAPTER 2

Hearings and inspection of premises

Decision with or without a hearing

29.—(1) Subject to the following paragraphs, the VTE must hold a hearing before making a decision which disposes of proceedings unless—

- (a) each party has consented to, or has not objected to, the matter being decided without a hearing; and
 - (b) the VTE considers that it is able to decide the matter without a hearing.
- (2) The VTE may in any event dispose of proceedings without a hearing under regulation 10 (striking out proceedings).

Notice of hearing

30.—(1) The VTE must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any changes to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days except that the VTE may give shorter notice—

- (a) with the parties' consent; or
- (b) in urgent or exceptional circumstances.

Public and private hearings

31.—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The VTE or the VTE panel may give a direction that a hearing, or part of it, is to be held in private.

(3) Where a hearing, or part of it, is to be held in private, the VTE or the VTE panel may determine who is permitted to attend the hearing or part of it.

(4) Where the VTE or the VTE panel considers—

- (a) that the conduct of any person is likely to disrupt the hearing;
- (b) that the presence of any person is likely to prevent another person from giving evidence or making submissions freely; or
- (c) that the presence of any person is likely to defeat the purpose of the hearing,

the VTE or the VTE panel (as the case may be) may give a direction excluding the person from any hearing, or part of it.

(5) The VTE panel may give a direction excluding from any hearing, or part of it any person whose conduct the VTE panel considers is disrupting the hearing.

(6) The VTE or the VTE panel may give a direction excluding a witness from a hearing until that witness gives evidence.

Hearing in a party's absence

32. If a party fails to attend a hearing the VTE panel may proceed with the hearing if—

- (a) it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) it considers that it is in the interests of justice to proceed with the hearing.

Appeals relating to validity of proposals

33. Where at the hearing of an appeal under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations (disagreement as to proposed alteration)—

- (a) the LO or, as the case may be, the VO contends that the proposal was not validly made; and
- (b) the VTE panel does not uphold the contention,

the VTE panel must not immediately proceed to deal with the appeal unless every party present or represented at the hearing so agrees.

Entry and inspection of premises

34.—(1) Subject to paragraph (2), the VTE panel may enter and inspect—

- (a) the dwelling or hereditament which is the subject of the appeal, and
- (b) so as far as is practicable, any comparable land or property to which the attention of the VTE panel is drawn.

(2) When the VTE panel intends to enter any premises in accordance with paragraph (1) it must give notice to the parties, who shall be entitled to be represented at the inspection.

(3) Where the VTE panel considers it appropriate, representation at an inspection shall be limited to one person to represent those parties having the same interest in the appeal.

CHAPTER 3

Decisions and Orders

Consent orders

35.—(1) The VTE may, at the request of the parties but only if the VTE considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.

(2) A consent order may provide for the alteration of a list and, where it does, shall specify the day from which the alteration is to have effect.

(3) Notwithstanding any other provision of these Regulations, the VTE need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

Notice of decisions

36.—(1) The VTE panel may give a decision orally at a hearing.

(2) As soon as reasonably practicable after the VTE panel, makes a decision which finally disposes of all issues in the proceedings, the VTE must provide to each party—

- (a) a decision notice stating the VTE panel's decision;
- (b) notification of any right of appeal against the decision and of any right to make an application for the review of the decision; and
- (c) notification of the time within which, and the manner in which, any such right may be exercised.

Reasons for the decision

37.—(1) As soon as reasonably practicable after the VTE panel makes a decision which finally disposes of all issues in the proceedings on an appeal, the VTE must send to each party a written statement of the VTE panel's reasons for the decision.

(2) In the case of an appeal against a completion notice, the VTE must send notice of the decision—

- (a) where the decision relates to a dwelling, to the LO for the relevant authority;
- (b) where the decision relates to a hereditament, to the VO for the relevant authority.

Orders other than consent orders

38.—(1) After dealing with a section 16 appeal the VTE may by order require—

- (a) an estimate to be quashed or altered;
- (b) a penalty to be quashed;
- (c) the decision of a billing authority to be reversed; or

(d) a calculation (other than an estimate) of an amount to be quashed and the amount to be re-calculated.

(2) After dealing with an appeal under regulation 10 of the CT Regulations (disagreement as to proposed alteration) the VTE may, subject to paragraph (3), by order require a LO to alter a list in accordance with any provision made by or under the 1992 Act.

(3) Where it is decided that the valuation band applicable to the dwelling should be higher than—

- (a) the valuation band shown in the list at the date of the proposal; and
- (b) the valuation band contended for in the proposal,

the VTE must order the LO to alter the list with effect from the day on which the VTE panel made the decision; and the LO must so alter the list, notwithstanding any provision to the contrary in regulation 11 of the CT Regulations (day from which alteration has effect).

(4) After dealing with an appeal under regulation 13 of the NDR Regulations (disagreement as to proposed alteration), the VTE may, subject to paragraph (6), by order require a VO to alter a list in accordance with any provision made by or under the 1988 Act.

(5) Subject to paragraph (7), where it is decided that a disputed rateable value should be an amount greater than—

- (a) the amount shown in the list at the date of the proposal; and
- (b) the amount proposed by the appellant,

the VTE must order the VO to alter the list with effect from the day on which the VTE members made the decision.

(6) Paragraph (6) does not apply where the order requires the VO to alter the list to show—

- (a) property previously rated as a single hereditament becoming liable to be rated in parts, or
- (b) property previously liable to be rated in parts becoming liable to be rated as a single hereditament, or
- (c) any part of a hereditament becoming part of a different hereditament.

(7) Where it appears that circumstances giving rise to an alteration ordered by the VTE have ceased to exist, the order may require the alteration to be made in respect of such period as appears to the VTE to reflect the duration of those circumstances.

(8) After dealing with an appeal against the imposition of a CT penalty or a NDR penalty, the VTE may order the LO or, as the case may be, the VO whose notice is the subject of the appeal to reduce or remit the penalty.

(9) The billing authority, the LO or the VO (as the case may be) must comply with an order under this regulation within two weeks of the day of its making.

(10) An order under this regulation may require any matter ancillary to its subject matter to be attended to.

PART 5

CORRECTING, REVIEWING, SETTING ASIDE AND APPEALING DECISIONS

Clerical mistakes and accidental slips or omissions

39. The VTE may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction, order or any document produced by it, by—

- (a) sending notification of the amended decision, direction or order, or a copy of the amended document, to all parties; and
- (b) making any necessary amendment to any information published in relation to the decision, direction, order or document.

Reviewing and setting aside decisions

40.—(1) A party may apply to the VTE in writing for the review of the whole or part of a decision which disposes of proceedings on an appeal.

(2) The VTE President may direct that a review be undertaken of the whole or part of a decision which disposes of proceedings on an appeal.

(3) An application under paragraph (1)—

- (a) must be made within 28 days of the date on which notice of the decision was sent; and
- (b) must be considered by the VTE President.

(4) The VTE President shall not grant an application under paragraph (1) unless at least one of the conditions in paragraph (5) is satisfied.

(5) The conditions referred to in paragraph (4) are—

- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;
- (b) a document relating to the proceedings was not sent to the VTE at an appropriate time;
- (c) a party or its representative was not present at a hearing relating to the proceedings and the party shows reasonable cause for its or its representative's absence;
- (d) there has been some other procedural irregularity in the proceedings;
- (e) the decision is affected by a decision of, or on appeal from, the Upper Tribunal or the High Court;
- (f) where the decision relates to an appeal against a completion notice, new evidence, whose existence could not have been discovered by reasonable inquiry or could not have been foreseen, has become available since the conclusion of the proceedings.

(6) Where an application under paragraph (1) is granted or a direction is given under paragraph (2), the VTE shall review the decision or part that is the subject of the review; and if it considers—

- (a) that any of the conditions specified in paragraph (5) is satisfied; and
- (b) that it is in the interests of justice to do so,

the VTE shall set aside the decision or part.

(7) Tribunal business arrangements^(a) shall apply in relation to the selection of members of the VTE to review a decision or part of a decision as if the review were an appeal.

(8) If the VTE sets aside a decision it must revoke any order made in consequence of the decision and notify the parties in writing of the revocation.

(9) The VTE must notify the parties in writing—

- (a) of the result of an application under paragraph (1);
- (b) of the result of a review under paragraph (6); and
- (c) if, under paragraph (8), it revokes an order.

(10) Where, on the day on which an application under paragraph (1) is made, an appeal to the Upper Tribunal or the High Court in relation to the same issue as is the subject of the application remains undetermined, the VTE shall notify the Upper Tribunal or the High Court as soon as reasonably practicable—

- (a) after the application is made; and
- (b) after notice is given under any sub-paragraph of paragraph (9).

(a) See paragraph A17(2) of Schedule 11 to the Local Government Finance Act 1988 inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 15, paragraphs 1 and 2.

Records of decisions, etc

41.—(1) The VTE must make arrangements for each decision, each order under regulation 35 or 38, the effect of each correction under regulation 39, and each revocation under regulation 40(8) to be recorded.

(2) Records may be kept in any form, whether documentary or otherwise, and shall contain the particulars specified in the Schedule to these Regulations.

(3) Each record shall be retained for the period of six years beginning on the day on which an entry was last made in it.

(4) Any person may, at a reasonable time stated by or on behalf of the VTE and without making payment, inspect records which are required to be made by paragraph (1).

(5) If without reasonable excuse a person having custody of records (“the custodian”) intentionally obstructs a person in exercising the right conferred by paragraph (4), the custodian shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(6) The production in any proceedings in any court of law of a document purporting to be certified by the VTE President or the clerk of the VTE(a) to be a true copy of a record of the VTE shall, unless the contrary is proved, be sufficient evidence of the document and of the facts it records.

Appeals to the Upper Tribunal

42.—(1) An appeal shall lie to the Upper Tribunal in respect of a decision or order given or made by the VTE on an appeal under the NDR Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 3 of the 1988 Act.

(2) An appeal under paragraph (1) shall lie at the instance of—

- (a) any party who appeared at the hearing or, if the appeal was disposed of by written representations, who made such representations; or
- (b) any person whose application under regulation 40(1) for the review of the decision relied (whether in whole or part) on satisfaction of the condition mentioned in regulation 40(5)(c).

(3) Subject to paragraph (4), an appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order against which the appeal is made.

(4) Where—

- (a) the appeal is made by a person of the description specified in paragraph (2)(b); and
- (b) the VTE gave notice in relation to the person’s application—
 - (i) that it would not undertake a review; or
 - (ii) having reviewed the decision or part, that it would not set aside the decision or part,

the appeal may be dismissed if it is not made within four weeks of the date of the VTE’s notice.

(5) The Upper Tribunal may confirm, vary, set aside, revoke or remit the decision or order, and may make any order the VTE could have made.

(6) VOs must act in accordance with any order made by the Upper Tribunal; and paragraph 9 of Schedule 11 to the 1988 Act shall have effect as if the reference to a tribunal(b) included a reference to the Upper Tribunal.

(a) As to the clerk of the VTE, *see* section 105(2) of, and paragraph 9 of Schedule 4 to, the Local Government Act 2003 (c.26). Section 105 and Schedule 4 were amended by the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 16, paragraphs 10, 11 and 13.

(b) By virtue of paragraph 12A of Schedule 11 to the Local Government Finance Act 1988 (“the 1988 Act”), inserted by the Local Government and Public Involvement in Health Act 2007, Schedule 15, paragraphs 1 and 17, the reference in paragraph 9 of Schedule 11 to the 1988 Act to a tribunal is a reference, in relation to England, to the Valuation Tribunal for England.

Appeals to the High Court

43.—(1) An appeal shall lie to the High Court on a question of law arising out of a decision or order which is given or made by the VTE on an appeal under section 16 of the 1992 Act or the CT Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 1 of the 1992 Act (council tax; England and Wales).

(2) Subject to paragraph (3), an appeal under paragraph (1) may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order that is the subject of the appeal.

(3) Where—

(a) the appeal is made by a person whose application under regulation 40(1) for the review of the decision relied (whether in whole or part) on satisfaction of the condition mentioned in regulation 40(5)(c); and

(b) the VTE gave notice—

(i) that it would not undertake a review; or

(ii) having reviewed the decision or part, that it would not set aside the decision or part,

the appeal may be dismissed if it is not made within four weeks of the date of the VTE's notice.

(4) The High Court may confirm, vary, set aside, revoke or remit the decision or order, and may make any order the VTE could have made.

(5) Billing authorities(a) and LOs must act in accordance with any order made by the High Court; and paragraph 10A of Schedule 11 to the 1988 Act(b) shall have effect as if the reference to a tribunal included a reference to the High Court.

Notification of further proceedings

44.—(1) Where a LO or a VO—

(a) applies to the VTE under regulation 40 for the review of a decision in consequence of which an order requiring the alteration of a list was made; or

(b) appeals to the Upper Tribunal under regulation 42 or the High Court under regulation 43 against a decision in consequence of which such an order was made, or against such an order,

the LO or, as the case may be, the VO must, at the same time or as soon as reasonably practicable afterwards, notify the authority concerned of the application or appeal.

(2) For the purposes of paragraph (1), the authority concerned—

(a) in relation to a section 16 appeal, is the billing authority concerned;

(b) where the application or appeal relates to the alteration of a local list, is the relevant authority for whose area the list was compiled; and

(c) where sub-paragraph (b) does not apply and the application or appeal relates to a provision of the NDR Regulations or an appeal against a completion notice under paragraph 1 of Schedule 4A to the 1988 Act as it applies for the purposes of Part 3 of the 1988 Act, is the Secretary of State.

(3) Where a VO appeals to the Upper Tribunal as mentioned in paragraph (1)(b), or receives notice of such an appeal instituted by another party, the VO must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

(4) Where, in relation to a decision or order made on an appeal against a completion notice, an authority appeals to the Upper Tribunal under regulation 42, or receives notice of such an appeal

(a) For the definition of "billing authority" see section 144(2) of the Local Government Finance Act 1988, substituted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 81(1) ("the 1992 Act"). In Part 1 of the 1992 Act, "billing authority" has the meaning given in section 1(2); see section 69(1).

(b) Paragraph 10A was inserted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 88.

instituted by another party, it must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

(5) Where, in relation to a decision or order made on a section 16 appeal, a billing authority appeals to the High Court under regulation 43, or receives notice of such an appeal instituted by another party, it must, as soon as reasonably practicable afterwards, notify the VTE of the appeal.

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

25th August 2009

Bill McKenzie
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, set out the procedures to be followed in connection with appeals relating to council tax or non-domestic rating that arise under:

section 16 of the Local Government Finance Act 1992 (appeals relating to chargeable dwellings for council tax purposes and as to liability for, and the amount payable by way of, council tax);

regulation 7 or 10 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2270) (appeals against invalidity notices and proposed alterations to council tax valuation lists);

regulation 8 or 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2268) (appeals against invalidity notices and proposed alterations to non-domestic rating lists);

paragraph 4 of Schedule 4A to the Local Government Finance Act 1988 as it applies for the purposes of—

Part 3 of that Act (appeals against non-domestic rating completion notices); and

Part 1 of the Local Government Finance Act 1992 (appeals against council tax completion notices);

paragraph 5C of Schedule 9 to the Local Government Finance Act 1988 (appeals against imposition of a non-domestic rating penalty); or

paragraph 3 of Schedule 3 to the Local Government Finance Act 1992 (appeals against imposition of a council tax penalty).

The Regulations reflect the establishment on 1st October 2009 under Part 13 of the Local Government and Public Involvement in Health Act 2007 of the Valuation Tribunal for England (“VTE”), which is to assume the jurisdiction currently exercised by 56 valuation tribunals in England. Those tribunals, which are to be abolished, deal with matters arising under:

regulations under section 55 of the Local Government Finance Act 1988 (“the 1988 Act”),

paragraph 4A of Schedule 4A to the 1988 Act,

paragraph 5C of Schedule 9 to the 1988 Act,

section 45 of the Land Drainage Act 1991 (c.59),

section 16 of the Local Government Finance Act 1992 (“the 1992 Act”),

regulations under section 24 of the 1992 Act, and

paragraph 3 of Schedule 3 to the 1992 Act.

The Regulations re-enact, with minor and drafting amendments, parts of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 (S.I. 1993/290) and the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 (S.I. 2005/659), which are revoked, with savings, by the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2270) and the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009/2268).

Part 1 of the Regulations deals with general matters, including the definition of certain terms used in the Regulations (regulation 2), the discharge of the VTE’s functions (regulation 3), and provision for arbitration (regulation 4).

In Part 2, regulation 5 imposes a duty on the President of the VTE to ensure that arrangements are made for appeals to be determined in accordance with the Regulations, and provides for the order in which certain appeals are to be dealt with.

Regulation 6(1) enables the VTE to regulate its own procedure, subject to the provisions of Part 1 of Schedule 11 to the 1988 Act, which was inserted in the form set out in paragraph 2 to Schedule 15 to the Local Government and Public Involvement in Health Act 2007 (c.28). Regulation 6(2) enables the VTE to give directions relating to the conduct or disposal of proceedings on a council tax or rating appeal.

Regulation 7 provides for treating one of a number of related appeals as the “lead” appeal. Regulation 8 enables a party to an appeal to apply to the VTE for directions. Regulation 9 deals with the consequences of a failure to comply with the Regulations or a direction given under them. Regulation 10 specifies the circumstances and procedure for striking out proceedings. Regulation 11 allows the VTE to direct the substitution of a party or the addition of a person as a party. Regulation 12 prevents the VTE from making any order as to costs. Regulation 13 explains how a party may be represented. Regulation 14 deals with the calculation of time for the purpose of complying with the Regulations or any direction given under them and regulation 15 deals with the sending and delivery of documents. Regulation 16 specifies the circumstances in which the VTE may make an order or give a direction prohibiting the disclosure or publication of documents or information. Regulation 17 enables the VTE to give directions about evidence and submissions, and requires listing officers (council tax) and valuation officers (non-domestic rating) to provide to appellants information about dwellings and hereditaments that are comparable to the appellant’s dwelling or hereditament. Regulation 18 enables the VTE to summon witnesses to attend hearings and to order a person to answer questions or produce documents.

Regulation 19 enables a party to withdraw an appeal, but if notice of withdrawal is given orally at a hearing, it is ineffective unless the panel of VTE members dealing with the appeal consent to the withdrawal. A party which has withdrawn its appeal may apply to the VTE for the appeal to be reinstated, but must do so within a specified time limit. Paragraphs (6) and (7) provide for appeals to be treated as withdrawn where the listing officer or the valuation officer alters a list in accordance with the appellant’s proposal, the listing officer decides to remit a council tax penalty or a valuation officer decides to remit a non-domestic rating penalty.

Part 3 of the Regulations is relevant only to council tax appeals. Regulation 20 defines terms used only in Part 3. Regulation 21 specifies the time limits for making council tax appeals. Regulations 22 and 23 provide for a new appellant to appeal, and another person to be added as a party to the new appellant’s appeal, where the appeal relates to the same decision as is the subject of the original appellant’s withdrawal. Regulation 24 applies where an appeal has been made under regulation 7(6) of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (“the CT Regulations”) (invalidity notices), and requires the VTE to acknowledge receipt of the appeal and to send to the council tax listing officer a copy of the written statement accompanying the appeal. Regulation 25 requires the VTE to serve specified persons with particular documents where the VTE receives a copy of a decision notice and a written statement under regulation 10(5) of the CT Regulations (a “CT10 statement”). Regulation 26 requires a council tax listing officer who receives a CT10 statement to inform the VTE of any persons who are parties to the appeal or appear to be interested persons as regards a dwelling to which the decision notice relates. Regulation 27 enables an interested person to be joined as a party to an appeal under regulation 10 of the CT Regulations (disagreement as to proposed alteration of council tax valuation list).

Part 4 relates to proceedings before the VTE.

In Chapter 1, regulation 28 deals with notices of appeal.

In Chapter 2, regulation 29 specifies the circumstances in which the VTE may deal with an appeal without a hearing, regulation 30 requires the VTE to give notice of hearings and regulation 31 enables the members of the VTE who are dealing with a particular appeal to direct that the hearing, or part of it, be held in private. Regulation 32 provides for hearings to continue in a party’s absence. Regulation 33 makes special provision in relation to appeals under regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (“the NDR Regulations”) which arise where the parties cannot agree on the way in which a non-domestic rating list should be altered. It provides that where the members of the VTE who are dealing with the appeal reject the valuation officer’s contention that the appellant’s proposal to

alter the list was not validly made, the proceedings should not continue immediately unless all parties present at the hearing agree. Regulation 34 enables the members of the VTE who are dealing with a particular appeal to inspect the premises concerned and, so far as practicable, other comparable premises to which the parties have drawn attention.

In Chapter 3, regulation 35 enables the VTE to make an order in the terms agreed by the parties. Regulations 36 and 37 provide for the giving of notice of, and reasons for, appeal decisions. Regulation 38 deals with the making of orders other than those made with the parties' consent.

Part 5 of the Regulations contains provisions relevant to procedures after appeals have been dealt with by the VTE. Regulation 39 enables clerical mistakes and accidental slips and omissions to be corrected. Regulation 40 provides for the review by the VTE of appeal decisions. Regulation 41 requires the VTE to maintain records. Regulation 42 provides for appeals to the Upper Tribunal in non-domestic rating cases and regulation 38 for appeals to the High Court on a point of law in council tax cases. Regulation 44 provides for notice to be given in the case of certain appeals to the Upper Tribunal or the High Court.

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