

EXPLANATORY MEMORANDUM TO
THE CENTRAL RATING LIST (ENGLAND) (AMENDMENT) (No. 2)
REGULATIONS

2010 No. 2692

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 The Central Rating List (England) (Amendment) (No. 2) Regulations 2010 (“the Amending Regulations”) amend the Central Rating List (England) Regulations 2005 (“the Central Rating List Regulations”), which describe the hereditaments¹ to be listed on the central rating list and designate the persons who are treated as occupying (or if unoccupied, owning) centrally listed hereditaments (“designated persons”). The Amending Regulations make amendments in respect of the persons designated in relation to certain types of communications hereditaments and in relation to long distance pipe-line hereditaments. The Amending Regulations also make a consequential amendment to the Non-Domestic Rating (Communications and Light Railways) (England) Regulations 2005 (“the Communications and Light Railways Regulations”).

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

3.1 Pursuant to the power in section 53(4) of the Local Government Finance Act 1988 (“the Act”), the amendment made by regulation 2(3) has effect from a date earlier than the date on which the Amending Regulations were made. See paragraph 4.4 below for further explanation of this amendment.

4. Legislative Context

4.1 Most non-domestic hereditaments in England appear on the local rating list for the local authority area in which they are situated and rates are paid to that local authority. However, some hereditaments appear on a central rating list and rates are paid to the Secretary of State for Communities and Local Government. These hereditaments include canals, railways and communication networks. The Central Rating List Regulations, which are made under section 53 of the Act, stipulate those hereditaments which must appear on the central list rather than any local list and designate the person who is in occupation of them for the purposes of rating.

4.2 Regulation 2(2) of the Amending Regulations amends Part 3 of the Schedule to the Central Rating Lists Regulations (communications hereditaments) by adding, with effect from the date the Amending Regulations come into force, seven

¹ A hereditament is the unit of property which is the subject of rating. The statutory definition can be found in section 64 of the Local Government Finance Act 1988.

companies (“the companies concerned”) to the list of designated persons in relation to which the hereditaments described in regulation 8(2) of the Central Rating Lists Regulations are prescribed.

4.3 Pursuant to provision made in regulation 3 of the Communications and Light Railways Regulations, which are made under section 64(3) of the Act, the communications hereditaments occupied by some of the companies concerned - Colt Telecom Group Plc, Easynet Telecommunications Limited and Level 3 Communications Ltd - are currently listed in certain local rating lists as specified in Part 1 of the Schedule to those regulations (communications hereditaments). Regulation 3 of the Amending Regulations makes consequential amendments to Part 1 of the Schedule to the Communications and Light Railways Regulations to delete the entries for those companies.

4.4 Regulation 2(3) of the Amending Regulations makes amendments concerned with designated persons in Part 12 (long distance pipe-line hereditaments) of the Schedule to the Central Rating List Regulations to reflect a change in occupation of a centrally listed hereditament. Pursuant to the power in section 53(4) of the Act, the amendment has effect from the beginning of the current financial year – i.e. 1st April 2010 - which is earlier than the date on which the Amending Regulations were made. Section 53(4) provides that amending regulations altering the designated person in relation to whom a description of hereditament is prescribed may have effect from a date earlier than the making of the regulations.

5. Territorial Extent and Application

This instrument applies 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

• *Communications Hereditaments*

7.1 The companies concerned are being moved to the central rating list to give effect to the Secretary of State’s decision that the communications hereditaments occupied by the companies concerned should more properly appear in the central rating list than in local rating lists. The Secretary of State’s decision was made having regard to considerations such as the nature and use of the hereditaments, the size and geographical spread of the hereditaments and the suitability or otherwise for assessment of the hereditaments on local rating lists. The decision was made following a request from the companies concerned. The name of each of the companies concerned is referenced to a specific date – 1st September 2010. This is because regulation 1(3)(c) of the Central Rating List Regulations fixes references to company names to 1st October 2004 “unless the context otherwise requires” and so it has to be made clear that the names of the companies being added are linked to a different date. This will ensure that any company name change taking place after 1st

September 2010 does not change the effect of these Regulations in relation to that company.

- ***Long Distance Pipe-line Hereditaments***

7.2 The Amending Regulations add to the list of designated persons in respect of centrally listed long distance pipe-line hereditaments, which appears in Part 12 of the Schedule to the 2005 Regulations, to reflect changes in that business sector. As a result, long distance pipe-line hereditaments occupied or, if unoccupied, owned by Total UK Limited can be shown on the central rating list for England. This is consistent with the position for similar businesses operating long distance pipe-line hereditaments.

- ***Consolidation***

7.3 The 2005 Regulations have been amended on four previous occasions but in the most part remain unchanged. The Department does not, therefore, intend to consolidate the 2005 Regulations.

8. Consultation outcome

8.1 There was no general consultation as the changes relate only to a very small number of ratepayers. Consultation did take place with those businesses affected by the amending regulations.

9. Guidance

9.1 No guidance is required as the addition of these businesses to the list of designated persons does not alter the rating system.

10. Impact

10.1 There is no impact on business except to the extent that the amendments ensure that where the hereditament concerned should more properly appear in the central rating list it does, and that where there has been a change in occupation of certain long distance pipe-line hereditaments, the companies which occupy those hereditaments are listed in the central rating list.

10.2 There is no impact on charities or voluntary bodies.

10.3 There is no impact on the public sector.

10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There are no plans to monitor or review the names of designated businesses for the central list, apart from when a change in trading name or occupier requires a further alteration.

13. Contact

Nick Cooper at the Department for Communities and Local Government Tel: 0303 44 43610 or email: nick.cooper@communities.gsi.gov.uk can answer any queries regarding the instrument.