

**EXPLANATORY MEMORANDUM TO**  
**THE NON-DOMESTIC RATING (ALTERATION OF LISTS AND APPEALS)**  
**(ENGLAND) (AMENDMENT) REGULATIONS 2022**

**2022 No. 1198**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 Business rate bills are based upon the rateable value of properties which appear in rating lists held by local authorities and the Secretary of State. The current rating lists date from the last revaluation of all rateable values in 2017 but these will be replaced with a new set of rateable values by the next revaluation on 1 April 2023. Occupiers and landlords are currently able to make a Proposal or Appeal against their 2017 list rateable value at any time. Ahead of the 2023 revaluation, this instrument will, with some exceptions, end on 31 March 2023 the ability of occupiers and landlords to make such Proposals or Appeals.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 SI 2009 No. 2268 (“The ALA regulations”) regulate the circumstances in which a non-domestic rating list may be altered.
- 6.2 The ALA regulations require occupiers and landlords (“interested persons”) to first complete a Check<sup>1</sup> of the information on their property before being able to proceed to

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<sup>1</sup> See regulation 3 of the ALA regulations for the definition of “check”.

a Proposal (a stage known in practice as a “Challenge”) or an Appeal<sup>2</sup>. This system, known as “Check, Challenge, Appeal”, was introduced for the 2017 rating list to ensure that factual matters concerning the property are settled at the Check stage before disputes about rateable values reach the Proposal and Appeal stages<sup>3</sup>.

- 6.3 Time limits exist in the ALA regulations concerning when an interested person may make a Proposal following a Check and when they may make an Appeal following a Proposal. However, no time limit exists for when they may first make a Check. As a result, interested persons are able to start the Check, Challenge, Appeal process at any time.

## 7. Policy background

### *What is being done and why?*

- 7.1 The current rating list, which contains rateable values assessed by the Valuation Office Agency (VOA) based on the market at 1 April 2015, has been in place since 1 April 2017. The next rating list, with a new updated set of rateable values based on the market at 1 April 2021, will take effect from 1 April 2023<sup>4</sup>. Therefore, from 1 April 2023 interested persons will be able use the Check, Challenge, Appeal process for rateable values in the 2023 rating list.
- 7.2 Prior to the introduction of the Check, Challenge, Appeal system in 2017, interested persons could make a Proposal to the VOA without first making a Check but in most cases the right to make a Proposal ended on the last day of the rating list. So, for example, the right in most cases to make Proposals on the 2010 rating list ended on the last day of that list – 31 March 2017.
- 7.3 However, in their current form the ALA regulations will allow interested persons to use Check, Challenge, Appeal on the soon to end 2017 rating list beyond 31 March 2023 without limitation. This means interested persons could continue to raise disputes on the 2017 rating list many months or years after it had been replaced with the new 2023 rating list. This would create uncertainty for the VOA as it could mean new disputes on the 2017 rating list being received many years into the future. This in turn could result in financial uncertainty for central and local government who rely on revenue from business rates. It would also be out of line with the position in respect of rating lists prior to 2017.
- 7.4 Therefore, the government announced on 6 May 2022 that it would bring the existing ALA regulations into line with previous policy and close the period in which interested persons may access the Challenge and Appeal process in respect of the outgoing (2017) rating list<sup>5</sup>. The instrument will ensure that the same rules will apply to the 2023 rating list when it is replaced by a new rating list expected on 1 April 2026<sup>6</sup> and to subsequent rating lists.

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<sup>2</sup> See regulation 2 of the ALA regulations for the definitions of “appeal” and “proposal”.

<sup>3</sup> The ALA regulations were amended by S.I. 2017/155 to introduce the Check, Challenge, Appeal system.

<sup>4</sup> See section 41(2A)(b) and section 52(2A)(b) of the Local Government Finance Act 1988.

<sup>5</sup> See [Business Rates Information Letter 4/2022](#), paragraphs 3 to 6.

<sup>6</sup> Currently sections 41 and 52 of the 1988 Act require the next rating list after 1 April 2023 to be on 1 April 2028 but the Government has announced the intention to change this to 1 April 2023 and every 3 years thereafter. See paragraph 3.6 of the [Final Report of the Business Rates Review](#).

- 7.5 The instrument provides for a general rule that in order to make a Proposal on a list (which as discussed above is known as the “Challenge” Stage) then the interested person must have confirmed a Check on their property by the last day of that rating list (31 March 2023 in respect of the current 2017 rating list).
- 7.6 There are two exceptions to this general rule. Firstly, where the Valuation Officer<sup>7</sup> has altered the rating list then the interested person has six months from the date of the alteration to confirm a Check. This ensures interested persons do not lose the right to make a Proposal when the Valuation Office makes an alteration in the last days or weeks of the rating list. Secondly, where there has been a relevant court decision which the interested person wished to cite as a reason for their rateable value being inaccurate, they may do so within six months of the end of the rating list. These exceptions replicate those which applied prior to the 2017 rating list.
- 7.7 Regulation 2(3) of the Instrument also amends the provisions of regulation 14(7)(b) of the ALA regulations. This is a clarification of the rule at regulation 14(7) which prevents the Valuation Office retrospectively increasing rateable values in certain circumstances. It makes clear that this rule applies to the alterations described in paragraphs (1B) to (5) of regulation 14. This avoids any doubt that the alterations described in 14(1B) fall outside of the rule in regulation 14(7).

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 No consolidation is planned.

## **10. Consultation outcome**

- 10.1 No policy consultation was undertaken as the Instrument replicates existing policy into the 2017 and future rating lists.

## **11. Guidance**

- 11.1 The Instrument will be implemented by the Valuation Office Agency who publish guidance on the Check, Challenge and Appeal system at <https://www.gov.uk/government/collections/check-and-challenge-step-by-step>.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies as interested persons have had up to 6 years to use the Check, Challenge, Appeal system on the 2017 rating list.
- 12.2 There is no, or no significant, impact on the public sector.

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<sup>7</sup> A Valuation Officer is a statutory officer responsible for compiling and maintaining a rating list. See sections 41 and 52 of the Local Government Finance Act 1988. They are officers of HMRC (see section 61 of the 1988 Act) and are supported by the Valuation Office Agency.

12.3 A full Impact Assessment has not been prepared for this instrument because it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision<sup>8</sup>.

### **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burden on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the Instrument does not impose any additional burdens on ratepayers. All businesses have had up to 6 years to use the Check, Challenge, Appeal system.

### **14. Monitoring & review**

14.1 The government continues to keep the administration of business rates under review.<sup>9</sup>

### **15. Contact**

15.1 Nick Cooper at the Department for Levelling Up, Housing and Communities  
Telephone: 0303 444 3610 or email: [nick.cooper@levellingup.gov.uk](mailto:nick.cooper@levellingup.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Chris Megainey, Deputy Director for Local Taxation, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lee Rowley at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

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<sup>8</sup> Section 22(4)(a) of the Small Business, Enterprise, and Employment Act 2015.

<sup>9</sup> The instrument, which is in connection with a local taxation regime, is not subject to the duty to review regulatory provisions in secondary legislation in section 28 of the Small Business, Enterprise, and Employment Act 2015.