



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

*Proposed Amendments to  
existing Business Rates Appeals  
Regulations*

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Consultation Paper

January 2006



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Deputy Prime Minister  

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Creating sustainable communities

# Proposed Amendments to existing Business Rates Appeals Regulations

Consultation Paper

January 2006

Office of the Deputy Prime Minister: London

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# INTRODUCTION

This consultation paper invites comments on proposed amendments to the existing arrangements governing business rates appeals. Most of the proposed amendments relate to the arrangements for the 2005 lists, although one proposal affects alterations to the 1995 lists.

The consultation paper comprises:

- details of the proposals for amending the existing appeals arrangements; and
- a partial Regulatory Impact Assessment.

## Comments and questions

This consultation document is available on the ODPM website at [www.odpm.gov.uk](http://www.odpm.gov.uk). Further paper copies may be obtained from:

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*Please highlight in subject box 'Appeals consultation response'.*

A list of the questions are at Annex A. Comments are also invited on the analysis and assumptions made in the attached partial Regulatory Impact Assessment.

The closing date for responses is 3 March 2006 because we are aiming to bring the amendments to the existing Regulations into force for the start of the 2005/06 financial year. When commenting, please make clear whether you represent any organisation or group, and in what capacity you are responding. A list of consultees is at Annex C.

A summary of responses will be published by 31 May 2006 on the ODPM website: [www.odpm.gov.uk](http://www.odpm.gov.uk).

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

This consultation document has been produced in accordance with the Government's Code of Practice on Consultation. The principal criteria governing this Code are reproduced at Annex B.

It is recognised that this consultation falls significantly short of meeting criterion 1 which requires a 12 week consultation period. However, most of the amendments being proposed are minor and have been put forward by rating professionals, so will come as no surprise. Indeed, their views have been reflected in this consultation paper. As we are aiming to bring these changes into force for the beginning of financial year 2006/07, the formal consultation period is being shortened and will end on 3 March 2006. However, given the background to the emergence of these proposals, we do not consider that this shortened period weakens the consultation exercise.

## Background

The rating of non-domestic property in England is carried out by the valuation officers of the Valuation Office Agency (VOA), an agency of Her Majesty's Revenue and Customs. Ratepayers may object to their local valuation officer – known as 'making a proposal' – against the rateable value of their property as shown on the local rating list. The same procedure, with some necessary modifications, applies to properties which appear on the central rating list.

As part of the revaluation of business rates that took effect from 1 April 2005, new regulations were introduced for making proposals against entries in the 2005 rating lists. These regulations introduced a number of changes to the system that applied to the 2000 rating lists. The aim of these changes was to strike a balance between reducing the number of unnecessary and unsubstantiated proposals submitted to the VOA while retaining the fundamental right of ratepayers to challenge their rateable value. The changes also addressed certain aspects of the existing system that had given rise to confusion and unfairness.

As the new system continues to settle down, some areas have come to light that could benefit from being amended to correct minor errors, clarify understanding or improve the effectiveness of the existing regime. Proposals to amend the system, as set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 (SI 2005/659) (the 2005 Regulations), are described below.

**Proposal 1: Extend to 30 September 2006 the time by which ratepayers may make proposals to alter the 1995 list for 31 March 2000 where the 2000 list has been altered by reason of a split, merger or reconstitution of property with effect from 1 April 2000.**

## The issue

The 2005 Regulations revoked the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993 (SI 1993/291) (the 1993 Regulations) but provided that they would continue to have effect in respect of the 1995 and 2000 lists. The 1993 Regulations set out the arrangements for appealing against the 1995 and the 2000 lists, and regulation 4B sets out the periods in which proposals relating to the 1995 list may be made.

Where a new property was created from a split or merger of another property during the life of the 1995 list, in most cases that list can no longer be corrected to show this. In those circumstances – i.e. where a new property was created during the life of the 1995 list – the 2000 list can be corrected to show the new property with effect from 1 April 2000. However, prior to 2003, the property fell outside the scope of the transition scheme for the 2000 list, because it didn't feature on the 1995 list.

To address this, amendments were introduced in 2003 so that transitional relief could apply to the new property, by allowing a proposal to be made to alter the 1995 list for its last day (31 March 2000). The time limit for making a proposal in these circumstances was 31 March 2005. A new property can now be shown in the rating lists both on 31 March 2000 and 1 April 2000 and transitional relief can be applied.

At the time the 2003 amending Regulations were introduced, valuation officers had a duty to continue to maintain the 2000 lists for an unlimited period; there was no cut-off date for amending the lists to reflect splits, mergers and reconstitutions in the 2000 list. Since then, however, a final cut-off date has been introduced through the 2005 Appeals Regulations. No valuation officer alterations can now be made to the 2000 lists as a result of splits, mergers or reconstitutions after 31 March 2006.

This means that the VO can continue to make alterations to the 2000 list up to 31 March 2006 and some of those alterations will be effective from 1 April 2000. However, there is no longer (since 1 April 2005) provision for the ratepayer to make a proposal to alter the 1995 list for 31 March 2000 to reflect the alteration made by the VO to the 2000 list. There is also no provision for the VO to amend the 1995 list as at 31 March 2000 to reflect the 2000 List alteration.

The effect is that ratepayers lose their transitional relief path and in some cases could be faced with larger rate bills than would otherwise be the case.

## Proposal

We propose to remove this unfairness by extending to 30 September 2006 the time by which ratepayers may make proposals to alter the 1995 list for 31 March 2000 where the valuation officer has made an equivalent amendment to the 2000 list for 1 April 2000. This should allow sufficient time for ratepayers and proposers to be notified of alterations to the 2000 list as a result of splits, mergers or reconstitutions with an effective date of 1 April 2000 and to decide whether to make a proposal to alter the 1995 list for 31 March 2000.

## Consultation Question 1

***Should ratepayers be given until 30 September 2006 to make a proposal to alter the 1995 list for 31 March 2000 in respect of entries that have been split, merged or reconstituted with effect from 1 April 2000?***

**Proposal 2: Amend regulation 5 of the 2005 Regulations to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010.**

### The issue

Regulation 5 of the 2005 Regulations sets out the time by which proposals to alter the list must be made. In most cases, proposals to alter lists compiled on or after 1 April 2005 must be made before the day on which the next list is compiled (31 March 2010). Regulation 5 provides that proposals made in the light of a tribunal or court decision can only be made in the 6 month period either side of the compilation of the next list, i.e. 1 October 2009 to 30 September 2010. The intention was to allow a proposal on this ground to be made at any time up to 6 months after the compilation of the next list.

### Proposal

We propose to amend the 2005 Regulations so that a proposal may be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list.

## Consultation Question 2

***Should regulation 5 of the 2005 Regulations be amended to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010?***

**Proposal 3: Amend regulation 6 of the 2005 Regulations to require the proposer to state the capacity in which the proposal is made, where the proposer is an interested party.**

### The issue

Regulation 6 of the 2005 Regulations sets out the requirements for making proposals and requires a statement whether the proposer is the interested person or the relevant authority. The term “interested person” encompasses the occupier, the owner, someone with a “qualifying connection”, or, where appropriate, the Crown Estate Commissioners. However, because there is currently no requirement for the proposer to state the capacity in which the proposal is made, it is not immediately apparent whether the same person has already made an earlier proposal.

This is important information for the valuation officer, given that the 2005 Regulations prevent a ratepayer from making duplicate proposals in relation to the same set of facts. Where that occurs, the subsequent proposal can be declared invalid. The 1993 Regulations required the proposer to state the capacity in which the proposal was being made. Introducing this requirement into the 2005 Regulations would enable the valuation officer to determine whether the proposal is made by the owner, occupier or some other person and whether a second or later proposal is made by the same person.

## Proposal

We propose to introduce a requirement on the proposer – where an interested person – to state the capacity in which the proposal is made.

### Consultation Question 3

*Where the person making a proposal is an interested person, should the proposer be required to state the capacity in which the proposal is being made?*

**Proposal 4: Amend regulation 6 of the 2005 Regulations to require rental details to be provided when making proposals on the grounds set out in Regulation 4(1)(a) to (g) and (i) to (l).**

### The issue

Regulation 6 of the 2005 Regulations specifies the information required to be included in a proposal. Where a proposal is made on certain specified grounds in respect of a hereditament occupied under a lease, easement or licence to occupy, the proposal must include details of the amount payable each year in respect of the lease, easement or licence to occupy. The grounds specified are those in Regulation 4(1)(a) to (g) and (i) and (l). The intention was that the grounds referred to should be those in Regulations 4(1)(a) to (g) and (i) **to** (l).

As presently constructed, the proposer is not required to state the rent where the proposal seeks the removal from the list of an indicator that part of a property is either domestic property or exempt from non-domestic rating, or where it seeks a merger or reconstitution. However, rent must be stated where the proposal seeks the inclusion in the list of an indicator that part of a property is either domestic property or exempt from non-domestic rating, or for the splitting of an assessment. This is inconsistent and was not intended.

## Proposal

We propose to amend regulation 6 to require rental details to be provided when making proposals on the grounds set out in Regulation 4(1)(a) to (g) and (i) to (l).

### Consultation Question 4

*Should a proposer be required to submit rental details when making proposals to remove from the list an indicator that part of a property is either domestic property or exempt from non-domestic rating, or where it seeks a merger or reconstitution?*

**Proposal 5: Amend regulation 8 to enable the valuation officer to serve an invalidity notice on the proposer any time before notice of hearing is given by the clerk of the valuation tribunal.**

### The issue

Where a valuation officer considers that a proposal has not been validly made, he has four weeks to serve an invalidity notice on the proposer. After this period, the only way to deal with such a proposal is to seek dismissal at valuation tribunal. All parties may agree that the

proposal is not valid but, after this initial four week period, it cannot be disposed of quickly to allow a fresh valid proposal to be served on the valuation officer.

The 1993 Regulations allowed an inaccurate proposal to be withdrawn and substituted with a new, correct proposal. However, the 2005 Regulations prevent a ratepayer from making duplicate proposals in relation to the same set of facts. This means that if, after this initial four week period, a proposal is judged to be invalid, it cannot simply be withdrawn and substituted with a fresh proposal.

It may only become apparent that a proposal has not been validly made once discussions commence between the valuation officer and the ratepayer or when new information comes to light, e.g. from a Notice Requesting the Supply of Information (NRSI or 'form of return'); this can be after the four week period has passed. In those cases, there would be merit in the valuation officer being able to serve an invalidity notice beyond the current four week period.

## Proposal

We propose removing the current four week restriction and instead enabling the valuation officer to serve an invalidity notice on the proposer at any time before notice of hearing is given by the clerk of the valuation tribunal. This would enable the ratepayer to make a further proposal in relation to the same property or to appeal against the invalidity notice to the relevant valuation tribunal.

We expect that extending the current four week limit will benefit the person making the proposal. It would enable the valuation officer to identify invalid proposals and take action to resolve the matter earlier than at present. The proposer would have an earlier opportunity either to submit a fresh proposal or to appeal against the invalidity notice.

However, it is possible that not all ratepayers would welcome this amendment and we are keen to ensure that the proposed new procedure should not lead to ratepayers being disadvantaged. There may, for example, be cases where the ratepayer has spent time and money in preparing their proposal and disagrees that it is invalidly made. In those situations, the proposer may not wish to be served with an invalidity notice some time – possibly many months – after making and working on their original proposal.

One way of safeguarding the position for those ratepayers who might otherwise be disadvantaged by the proposed new procedure would be to introduce a requirement that an invalidity notice can only be served after the current four week period if the proposer agrees. If the proposer disagrees, the issue of validity would – as at present – remain to be resolved at the valuation tribunal.

## Consultation Question 5

***Should the valuation officer be able to serve an invalidity notice on a proposer any time before notice of hearing is given by the clerk of the valuation tribunal?***

## Consultation Question 6

***Should the valuation officer only be allowed to serve an invalidity notice on a proposer beyond the current four week period with the agreement of the proposer?***

**In addition to proposals 1-5 above, we have also received representations seeking an amendment to regulation 8 of the 2005 Regulations to clarify that the date of a proposal is the date it is first made, not the date it is finally determined as being valid.**

## **The issue**

Regulation 8 covers the situation where a valuation officer considers that a proposal has not been validly made and the action that the ratepayer may take if served with an invalidity notice, including making an appeal to the relevant valuation tribunal. Where the validity of the proposal is questioned, the subsequent steps in the appeals process (governed by regulations 9-13) are suspended by regulation 8(9) until that question has been resolved. If the proposal is ultimately found to be valid, the ordinary procedure starts up again and the time limits relevant to those procedures run from the date of the decision on the validity of the proposal.

We have received representations that regulation 8(9) also means that the proposal is treated as having been served on the valuation officer on the date upon which it is finally determined to be valid.

Our understanding, and that of the VOA, is that this is not the case and that the date of the proposal is the date it is first made. At this stage, therefore, we are not intending to make any change to the existing regulation. However, in view of the representations that have been made on this issue, we would be interested to hear whether practitioners have experienced difficulties with the drafting of the regulation. We will consider the issue again in the light of the responses to this consultation, but will only consider making changes to the regulation if there are widespread concerns and it is clear that the current construction of the regulation is giving rise to difficulties.

## **Consultation Question 7**

***Have you experienced difficulties with the interpretation of regulation 8(9) of the 2005 Regulations? If you have experienced difficulties, please provide details of the particular proposals where problems have arisen.***

# **PARTIAL REGULATORY IMPACT ASSESSMENT (RIA)**

## **PROPOSED AMENDMENTS TO THE EXISTING BUSINESS RATES APPEALS REGULATIONS**

### **Purpose and intended effect**

#### **The objective**

The objective is to improve the efficiency of the system that allows a ratepayer to request an alteration to the rateable value of a property shown on the national non-domestic rating lists.

#### **The background and rationale for Government intervention**

The rating of non-domestic property in England is carried out by the valuation officers of the Valuation Office Agency (VOA), an agency of Her Majesty's Revenue and Customs. Ratepayers may object to their local valuation office – known as 'making a proposal' – against the rateable value of their property or other information shown on the local rating list. The same procedure, with some necessary modifications, applies to properties which appear on the central rating list.

As part of the revaluation of business rates that took effect from 1 April 2005, new regulations were introduced for making proposals against entries in the 2005 rating lists. These regulations introduced a number of changes to the system that applied to the 2000 rating lists. The aim of these changes was to strike a balance between reducing the number of unnecessary and unsubstantiated proposals submitted to the VOA while retaining the fundamental right of ratepayers to challenge their rateable value. The changes also addressed certain aspects of the existing system that had given rise to confusion and unfairness.

As the new system continues to settle down, some areas have come to light that could benefit from being amended to correct minor errors, clarify understanding or improve the effectiveness of the existing regime. As such, Government intervention is required to amend the regulations. Proposals to amend the system, as set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 (SI 2005/659) (the 2005 Regulations), are described below.

### **Options**

There are two possible options – to do nothing or to amend the existing regulations to address the minor errors, clarify understanding and improve the effectiveness of the existing arrangements.

## **Option 1 – Do nothing**

If the Government did not make any changes, the arrangements that currently apply in respect of the 1995, 2000 and 2005 non-domestic rating lists would continue to apply. The errors that have been identified in the current system would continue and ratepayers would continue to be disadvantaged by an unfairness that exists under the present regime.

## **Option 2 – Amend the legislation**

The following suggested amendments stem from recommendations from rating agents and the VOA. These would require alterations to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 (the 2005 Regulations).

- Proposal 1 – Extend to 30 September 2006 the time by which ratepayers may make proposals to alter the 1995 list for 31 March 2000 where the valuation officer has made an equivalent amendment to the 2000 list.
- Proposal 2 – Amend regulation 5 of the 2005 Regulations to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010.
- Proposal 3 – Amend regulation 6 of the 2005 Regulations to require the proposer to state the capacity in which the proposal is made, where the proposer is an interested person.
- Proposal 4 – Amend regulation 6 of the 2005 Regulations to require rental details to be provided when making proposals on the grounds set out in regulation 4(1)(a) to (g) and (i) to (l).
- Proposal 5 – Amend regulation 8 of the 2005 Regulations to enable the valuation officer to serve an invalidity notice on the proposer any time before notice of hearing is given by the clerk of the valuation tribunal.
- Proposal 6 – Amend regulation 8 of the 2005 Regulations to clarify that the date of a proposal is the date it is first made, not the date it is finally determined as being valid.

The proposals apply to England only.

## **Benefits**

### **ECONOMIC**

#### **Option 1 – Do nothing**

Maintaining the status quo is likely to result in some cost benefits. In particular, the VOA would not be faced with the costs involved in handling the additional proposals resulting from Proposal 1 below.

## Option 2 – Amend the legislation

Proposal 1 – Extend to 30 September 2006 the time by which ratepayers may make proposals to alter the 1995 list for 31 March 2000 where the valuation officer has made an equivalent amendment to the 2000 list.

This amendment would enable a proposal to be made to alter the list for 31 March 2000, where the 2000 list had been altered by the valuation officer as a result of a split, merger or reconstitution, with an effective date of 1 April 2000. At present, there is no such facility which means that ratepayers lose their transitional relief path and, in some cases, are faced with larger rate bills than would otherwise be the case.

The extent to which ratepayers will benefit financially from this amendment will depend on the particular circumstances of the case.

Proposal 2 – Amend regulation 5 of the 2005 Regulations to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010.

This amendment would correct a drafting error in the existing Regulations and would enable a ratepayer to make a proposal in the light of a tribunal or court decision at a much earlier stage than the Regulations currently permit. This means the ratepayer will be able to enjoy any financial benefit arising from a proposal in these circumstances earlier than at present.

Proposal 3 – Amend regulation 6 of the 2005 Regulations to require the proposer to state the capacity in which the proposal is made, where the proposer is an interested person.

In many cases, this information is already provided voluntarily by interested persons when submitting proposals. In other cases, though, the valuation officer has to go back to the proposer to clarify the capacity in which the proposal is being made. The introduction of this amendment would clarify the status of the interested person up front and save the valuation officer from having to go back to the proposer.

Proposal 4 – Amend regulation 6 of the 2005 Regulations to require rental details to be provided when making proposals on the grounds set out in regulation 4(1)(a) to (g) and (i) to (l).

Although, technically, this introduces a new requirement for ratepayers to provide information when making proposals on certain grounds, this amendment simply corrects an inconsistency in the existing Regulations which was never intended. The introduction of this amendment will ensure that the relevant information is provided when the proposal is first made and ensures consistency in the information required to be provided when making a proposal.

Proposal 5 – Amend regulation 8 of the 2005 Regulations to enable the valuation officer to serve an invalidity notice on the proposer any time before notice of hearing is given by the clerk of the valuation tribunal.

This would enable issues of invalidity to be resolved more speedily. The proposer would have an earlier opportunity than at present either to submit a fresh proposal or to appeal against the invalidity notice. This means that ratepayers are likely to be able to enjoy any financial benefit arising from a proposal earlier than at present.

Proposal 6 – Amend regulation 8 of the 2005 Regulations to clarify that the date of a proposal is the date it is first made, not the date it is finally determined as being valid.

Views are invited in this consultation paper on the extent to which the existing regulation 8 is causing problems of interpretation. If there is clear evidence that this is giving rise to difficulties and that ratepayers are being disadvantaged financially, further consideration will be given to addressing the issue.

## **Costs**

### **ECONOMIC**

#### **Option 1 – Do nothing**

The Do Nothing option could result in some financial disadvantage to ratepayers. In particular, ratepayers would be denied the opportunity to have their transitional relief reassessed (Proposal 1) and to benefit from the earlier resolution of invalidity issues (Proposal 5). Both valuation officers and valuation tribunals would also fail to benefit from a reduction in the need to attend hearings to resolve invalidity hearings if Proposal 5 were not adopted.

#### **Option 2 – Amend the legislation**

Proposal 1 – Extend to 30 September 2006 the time by which ratepayers may make proposals to alter the 1995 list for 31 March 2000 where the valuation officer has made an equivalent amendment to the 2000 list.

This amendment has the potential to increase the number of proposals that are made to the VOA, but it would apply in very limited circumstances. A proposal could only be made to alter the 1995 list for 31 March 2000, where the 2000 list had been altered by the valuation officer as a result of a split, merger or reconstitution, with an effective date of 1 April 2000. In addition, ratepayers will only have until 30 September 2006 to make a proposal.

We estimate that, since 1 April 2005, there have been less than 400 instances where the valuation officer has split, merged or reconstituted a 2000 rating list entry or entries with effect from 1 April 2000. Where the 2000 list has been altered in these circumstances, it will be for the ratepayer concerned to decide whether to make a proposal to alter the list for 31 March 2000. In theory, this could result in no more than 400 additional proposals being made to the VOA by 30 September 2006. However, it will not always be to the financial advantage of the ratepayer to make a proposal to alter the list for 31 March 2000. Of the 400 assessments that have been affected, we estimate that around 200 proposals will be made to the VOA.

There may be cost implications for those who decide to make proposals in these circumstances. In many cases, ratepayers will be able to make proposals themselves at minimal expense. In other cases, ratepayers may choose to employ agents to act on their behalf; the cost to the ratepayer will inevitably vary depending on the terms of the contract between the ratepayer and agent.

The making of additional proposals will have cost implications for the VOA, although it is not possible to estimate this impact with any precision. The cost of determining proposals varies widely and depends on factors such as the complexity of the case and the size of the hereditament. In view of this, an 'average' cost for determining proposals is fairly meaningless. The estimated number of appeals likely as a result of this change is not significant compared with anticipated receipts of appeals against the current lists which came into force on 1 April 2005.

Broadly speaking, and allowing for the fact that cases may vary widely in complexity, proposals to alter the 1995 list as at 31 March 2000 should not require significant costs to determine. This is because much of the information required to determine the case will already be available to the valuation officer in the context of alterations to the 2000 list for 1 April 2000.

Proposal 2 – Amend regulation 5 of the 2005 Regulations to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010.

There is no cost associated with this proposal.

Proposal 3 – Amend regulation 6 of the 2005 Regulations to require the proposer to state the capacity in which the proposal is made, where the proposer is an interested party.

There is no cost associated with this proposal.

Proposal 4 – Amend regulation 6 of the 2005 Regulations to require rental details to be provided when making proposals on the grounds set out in regulation 4(1)(a) to (g) and (i) to (l).

Although, technically, this introduces a requirement for ratepayers to provide information when making proposals on certain grounds, it addresses and corrects an error in the 2005 Regulations. The costs of providing this information would be negligible. Basic rental information should be known by a rating agent and is information that the small business person will have to hand.

Proposal 5 – Amend regulation 8 of the 2005 Regulations to enable the valuation officer to serve an invalidity notice on the proposer any time before notice is given that the unresolved matter is to be dealt with by the valuation tribunal.

We expect that extending the current four week limit will benefit the person making the proposal. However, there may be some cases where the ratepayer has spent time and money in preparing their proposal and disagrees that it is invalidly made. In those cases, the ratepayer may feel disadvantaged by the service of an invalidity notice some time after making the original proposal. This consultation paper therefore invites views on whether this proposal might result in some ratepayers being disadvantaged and, if so, whether to introduce a requirement that an invalidity notice can only be served after the current four week period if the proposer agrees. Further consideration will be given to this issue in the light of the consultation responses.

Proposal 6 – Amend regulation 8 of the 2005 Regulations to clarify that the date of a proposal is the date it is first made, not the date it is finally determined as being valid.

Views are invited in this consultation paper on the extent to which the existing regulation 8 is causing problems of interpretation. If there is clear evidence that this is giving rise to difficulties and that ratepayers are being disadvantaged financially, further consideration will be given to addressing the issue.

## **Race equality assessment**

There are no racial equality issues in relation to the proposed changes.

## **Health impact assessment**

There are no health impact issues in relation to the proposed changes.

## **Rural impacts**

There are no rural impact issues to consider.

## **Environmental and social**

There are no environmental or social impacts associated with the proposed changes.

## **Equity and fairness**

The proposals in this consultation paper would apply equally to all business ratepayers, including small businesses, whether in urban or rural areas.

Proposal 1 is aimed at addressing an unfairness in the current system by allowing ratepayers until 30 September 2006 to make proposals to alter the 1995 lists for 31 March 2000. This consultation paper also invites comments on whether Proposal 5 could lead to some ratepayers being disadvantaged and therefore whether the proposal should be modified to safeguard the position for those ratepayers. The issue will be considered further in the light of the responses to the consultation.

## **The small firms impact test**

The Small Business Bureau has been consulted on these proposals. Their initial view is that these are not likely to have a significant negative impact on small firms. The Small Business Service have seen the document. While initial soundings suggest that significant negative impact is unlikely, they advise wider consultation with small businesses and their trade bodies.

## **Competition assessment**

The competition assessment was introduced jointly by the Office of Fair Trading and the Cabinet Office to ensure that new legislation will not introduce change to the competitive environment which could lead to a negative effect on the working of the markets. We do not believe that any market sector will be disproportionately affected by these measures.

## **Enforcement, sanctions and monitoring**

The Local Government Finance Act 1988 establishes the main structure of the rating system. If the proposals are taken forward, the relevant regulations will be amended accordingly and the wider rating system, including the provisions relating to enforcement and sanctions, will remain unaffected.

## **Monitoring and review**

Business properties are revalued every five years and the next revaluation is due to take effect on 1 April 2010. The ODPM and the VOA will continue to monitor the effectiveness of the arrangements for making proposals against the rateable value of properties shown on the non-domestic rating lists, including the effectiveness of the changes proposed in this consultation. Any issues arising from the operation of these proposed new arrangements would be noted and considered with a view to introducing further possible changes.

# ANNEX A

## Consultation questions

### Question 1

Should ratepayers be given until 30 September 2006 to make a proposal to alter the 1995 list for 31 March 2000 in respect of entries that have been split, merged or reconstituted with effect from 1 April 2000?

### Question 2

Should regulation 5 of the 2005 Regulations be amended to allow a proposal to be made in the light of a tribunal or court decision at any time up to 6 months after the compilation of the next list, i.e. by 30 September 2010?

### Question 3

Where the person making a proposal is an interested person, should the proposer be required to state the capacity in which the proposal is being made?

### Question 4

Should a proposer be required to submit rental details when making proposals to remove from the list an indicator that part of a property is either domestic property or exempt from non-domestic rating, or where it seeks a merger or reconstitution?

### Question 5

Should the valuation officer be able to serve an invalidity notice on a proposer any time before notice of hearing is given by the clerk of the valuation tribunal?

### Question 6

Should the valuation officer only be allowed to serve an invalidity notice on a proposer beyond the current four week period with the agreement of the proposer?

### Question 7

Have you experienced difficulties with the interpretation of regulation 8(9) of the 2005 Regulations? If you have experienced difficulties, please provide details of the particular proposals where problems have arisen.

# ANNEX B

## The consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your Department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at:

[www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm](http://www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm)

As explained at the start of this consultation, it is recognised that criterion 1 has not been satisfied, and reasons are given as to why the decision was made to consult over a shortened period. If, notwithstanding these reasons, you believe that the shortened period has seriously flawed the consultation process, or that any of the other criteria have not been satisfied, or if you have any other observations about ways of improving the consultation process, please contact:

Adam Bond  
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Room 2.19  
26 Whitehall  
London  
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e-mail to: [adam.bond@odpm.gsi.gov.uk](mailto:adam.bond@odpm.gsi.gov.uk)

# ANNEX C

## List of consultees:

Alliance of Independent Retailers and Businesses  
Association of Charity Shops  
Association of Electricity Producers  
Association of London Government  
AVOV  
Baker Davidson Thomas  
BBG Surveyors  
Beefeater Restaurant and Pubs  
Boots the Chemist Ltd  
BNFL  
Brewers and Licensed Retailers Association  
British Airports Authority  
British Cement Association  
British Chamber of Commerce  
British Energy  
British Holiday and Home Parks Association  
British Hospitality Association  
British Ports Association  
British Property Federation  
British Self Catering Association  
British Wind Energy Association  
Bull Information Systems  
Business in Sport and Leisure Ltd  
Butler Thompson Associates  
Capita Managed Services  
CDC Public Affairs  
Central Lobby Consultant Ltd  
Chartered Institute of Public Finance and Accountancy  
Chemical Industries Association  
Chesterton  
Church of England General Synod Board of Education  
Clifford Chance  
Cluttons, Daniel Smith

CMG  
Cooke Rudling  
Combined Heat and Power Association  
Committee of Vice-Chancellors and Principals  
Confederation of British Industry  
Council of Tribunals  
Country Landowners Association  
Debenham Thorpe  
Drivers Jonas  
DTZ Debenham Thorpe  
Dunlop Heyward Lorenz  
Eastern Electricity  
Electricity Association Services Ltd  
Engineering Industries Association  
English County Council and Unitary Authorities  
English Local Billing Authorities  
Enron  
Esso UK  
Evans and Payne Chartered Surveyors  
Federation of Small Business  
Flex Systems Limited  
Focus DIY Ltd  
FPD Savills  
Freight Transport Association  
GL Hearn and Partners  
Goodman Mann Associates  
Great Mills (Retail) Ltd  
Grimley JR Eve  
Group Representing other Generators  
Inners England  
Institute of Directors  
Institute of Revenue, Rating and Valuation  
John Dee Wood  
Johnson Ward  
King Sturge and Co  
KPMG  
Lambert Smith Hampton

Local Government Association  
London and Continental Stations and Property Ltd  
London Chamber of Commerce  
London First Centre  
London Regional Transport  
LSM Partners  
Machinery Users Association  
Matthews and Goodman  
Mid Kent Water  
National Association of Govenors and Managers  
National Association of of Local Councils  
National Caravan Council  
National Farm Attractions Network  
National Federation of Retail Newsagents  
National Federation of Sub-Postmasters  
National Private Day Nurseries Association  
National Wind Power Ltd  
Nelson Bakewell  
OFWAT  
Orix Europe Ltd  
Other Government Departments  
Planning and Environment Bar Association  
Portsmouth Water  
PPM  
Price Waterhouse Cooper  
Property Managers Association  
Railtrack Property  
Royal Institute of Chartered Surveyors  
Saffron Computer Services Ltd  
Shanks and McEwan  
Small Business Bureau  
St Hugh's College  
Sutton and East Surrey Water  
Swan Hill Properties  
Tesco  
The Adjudicator's Office  
The Audit Commission

The British Retail Consortium  
The Caravan Club  
The Central Council of Physical Recreation  
The Chairperson of the Greater London Authority  
The City of London  
The Cold Storage and Distribution Federation  
The Commission for Local Administration in England  
The Forum of Private Business  
The Independent Food Retailers Confederation  
The Institute for School and College Governors  
The Institute of Management  
The Law Society  
The Mayor of London  
The National Health Service Estate Management and Health Building Agency  
The National Pharmaceutical Association  
The National Farm Attraction Network  
The Post Office  
The Renewable Power Association  
The Rural Communities Charity (ACRE)  
United Kingdom Major Ports Group  
Valuation Office Agency  
Valuation Tribunal Management Board  
Village Retail Services Association  
Water UK  
Weatherall Green and Smith  
Whitmarch, Priest, Lockhart  
Wilks Head and Eve  
Yorkshire Electricity