

1989 No. 440

RATING AND VALUATION

**The Valuation and Community Charge Tribunals
(Transfer of Jurisdiction) Regulations 1989**

<i>Made</i> - - - -	<i>12th March 1989</i>
<i>Laid before Parliament</i>	<i>17th March 1989</i>
<i>Coming into force</i>	<i>1st May 1989</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 117(8) and 143(1) and (2) of and paragraphs 3, 14 and 16 of Schedule 11 to the Local Government Finance Act 1988(a), and section 48(6) of the General Rate Act 1967(b), and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals as required by section 10 of the Tribunals and Inquiries Act 1971(c) hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989 and shall come into force on 1st May 1989.

Interpretation

2. In these Regulations—

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

“the 1967 Act” means the General Rate Act 1967;

“the transfer date” means 1st May 1989;

“tribunal” means a valuation and community charge tribunal established by regulations under Schedule 11 to the Act.

Transfer of jurisdiction

3.—(1) On and after the transfer date, tribunals shall (in addition to the jurisdiction conferred on them by section 23 of the Act) exercise the jurisdiction conferred on local valuation courts by—

(a) sections 73(2)(b), 74(3), 75 and 83(6) of the 1967 Act(d);

(b) section 2(5B) and paragraph 11(2) of Schedule 1 to the Rating (Disabled Persons) Act 1978(e);

(c) regulation 6 of the Mixed Hereditaments (Certificate) Regulations 1967(f);

(a) 1988 c.41.

(b) 1967 c.9. The powers cited were conferred on the Minister of Housing and Local Government (by virtue of the definition of “Minister” in section 115(1)), and vested in the Secretary of State by S.I. 1970/1681.

(c) 1971 c.62. Valuation and community charge tribunals were added to Schedule 1 to the 1971 Act by paragraph 41 of Schedule 12 to the 1988 Act.

(d) Sections 73 and 74 were amended by the Rates Act 1984 (c.33), Schedule 1.

(e) 1978 c.40. Section 2(5B) was inserted by paragraph 22 of Schedule 1 to the Rates Act 1984.

(f) S.I. 1967/637.

(d) section 78 of the Land Drainage Act 1976(a);
and on that date the local valuation courts shall be wound up.

(2) The jurisdiction transferred by paragraph (1) shall be exercised as regards appeals or applications instituted or made before, as well as those instituted or made on or after, the transfer date.

Transitional provisions

4.—(1) This regulation applies to any appeal or application instituted or made under any of the provisions mentioned in regulation 3(1).

(2) Any appeal or application which was instituted before the transfer date shall be continued as an appeal to the valuation and community charge tribunal established for the area for which was constituted the local valuation panel from among whose members the local valuation court to hear and determine the appeal fell to be convened.

(3) In relation to any appeal or, as the case may be, application made under a provision mentioned in paragraph (1)(a) to (c) of regulation 3 which is instituted on or after the transfer date, subject to the provisions mentioned in paragraph (4) the tribunal which is to hear and determine the appeal or application shall be the tribunal established for the area in which the hereditament is situated.

(4) The provisions referred to in paragraph (3) (which are saved by regulation 6(4)) are—

- (a) regulation 3 (which deals with extensive undertakings) of the Rating Appeals (Local Valuation Courts) Regulations 1956(b); and
- (b) regulation 3 (which deals with contiguous and neighbouring hereditaments) of the Local Valuation Panels (Jurisdiction) Regulations 1967(c).

(5) In relation to any appeal under section 78 of the Land Drainage Act 1976 which is instituted on or after the transfer date, the tribunal which is to hear and determine the appeal shall be determined in accordance with section 78 of the Land Drainage Act 1976 and the Drainage Rates (Appeals) Regulations 1970(d) (which are saved by regulation 6(4)), in each case as amended as provided by regulation 6.

5. Schedule 1 shall have effect to provide for continuity of employment in respect of the employees of local valuation panels.

Consequential and supplementary amendments, savings and repeals

6.—(1) The enactments and instruments mentioned in Schedule 2 shall on the transfer date be amended as provided in that Schedule.

(2) Notwithstanding section 117(1) of and Part I of Schedule 13 to the Act, the 1967 Act shall continue to have effect on and after 1st April 1990 in respect of appeals and applications under the enactments referred to in regulation 3(1) instituted before that date.

(3) But sections 88(1) to (4), sections 89 to 92 and 94 of the 1967 Act, section 79(8) of the Land Drainage Act 1976 and regulation 4(3) of the Rating Appeals (Local Valuation Courts) Regulations 1956 shall not have effect on and after the transfer date.

(4) Nothing in section 117(1) of the Act or in this regulation shall affect the Rating Appeals (Local Valuation Courts) Regulations 1956, the Local Valuation Panels (Jurisdiction) Regulations 1967 and the Drainage Rates (Appeals) Regulations 1970 (in each case as amended by Schedule 2) as they apply in respect of appeals and applications to which regulation 4 applies.

9th March 1989

Nicholas Ridley
Secretary of State for the Environment

12th March 1989

Peter Walker
Secretary of State for Wales

(a) 1976 c.70.
(b) S.I. 1956/632.
(c) S.I. 1967/636.
(d) S.I. 1970/1152.

CONTINUITY OF EMPLOYMENT

1. This Schedule applies to any person (an "employee") who immediately before the transfer date is employed under a contract of employment with a local valuation panel.

2. The contract of employment between an employee and the local valuation panel shall not be terminated by that panel ceasing to exist, but shall have effect from the transfer date as if originally made between the employee and the tribunal ("the appropriate tribunal") established by regulation 3 of the Valuation and Community Charge Tribunals Regulations 1989(a) for the area for which that panel was established.

3. Without prejudice to paragraph 2-

- (a) all the rights, powers, duties and liabilities of the panel under or in connection with a contract to which this Schedule applies shall on the transfer date by virtue of this paragraph be transferred to the appropriate tribunal; and
- (b) anything done before the transfer date by or in relation to the panel in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the tribunal.

4. Paragraphs 2 and 3 are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only of the change of employer effected by this Schedule.

AMENDMENTS TO RATING AND LAND DRAINAGE LEGISLATION

PART I

RATING APPEALS

1. The enactments and instruments mentioned in Table 1 shall be amended as indicated in that Table.

TABLE 1

GENERAL RATE ACT 1967(b)

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
section 70(5)	"the clerk to the local valuation panel"	"the clerk of the valuation and community charge tribunal"
section 72(1)	"any appeal to a local valuation court"	"any appeal to a valuation and community charge tribunal"
section 73(1) section 74(2)	from "the clerk" to "constituted" where second occurring	"the clerk of the valuation and community charge tribunal having jurisdiction in relation to the hereditament in question in accordance with regulations under Schedule 11 to the Local Government Finance Act 1988"
section 73(2)(b) section 74(3) section 83(9)	} "appeal to a local valuation court"	"appeal to a valuation and community charge tribunal"

(a) S.I. 1989/439.

(b) c.9. Sections 70 to 76 were amended by the Rates Act 1984 (c.33), Schedule 1 paragraphs 12 to 18, with effect as provided in paragraph 19.

(1)	(2)	(3)
<i>Provision</i>	<i>Words to be replaced</i>	<i>Words substituted</i>
section 74(3)	"the clerk to a local valuation panel"	"the clerk of a valuation and community charge tribunal"
section 75(b)	"the clerk of a local valuation panel"	"the clerk of a valuation and community charge tribunal"
section 76(1)	The whole subsection	"Where a copy of a proposal is transmitted to the clerk of a valuation and community charge tribunal and by virtue of section 73(2), 74(3) or 75 of this Act that transmission has effect as an appeal to the tribunal against an objection to the proposal, it shall be the duty of the president of that tribunal to make arrangements for the appeal to be determined."
section 76(2)	The whole subsection	<p>"(2) The procedure of a valuation and community charge tribunal shall, subject to the Rating Appeals (Local Valuation Courts) Regulations 1956 and to this section, be such as the tribunal may determine; and unless subsection (2A) of this subsection applies, the tribunal</p> <p>(a) shall sit in public, unless the tribunal otherwise orders on the application of any party to the appeal and upon being satisfied that the interests of that party would be prejudicially affected and</p> <p>(b) may take evidence on oath and shall have power to administer oaths.</p> <p>(2A) This subsection applies where all the parties who would be entitled to appear as provided in subsection (4) of this section have agreed that the appeal shall be determined on the basis of written representations.</p> <p>(2B) Where subsection (2A) applies, subsection (4) shall not apply, and the appeal shall be determined by a valuation and community charge tribunal constituted as provided in section 88(5) of this Act on the basis of any representations submitted in writing by the parties."</p>
section 76(3)	From the beginning to "may hear and determine"	"Where, by virtue of section 75 of this Act, the transmission of a copy of a proposal relating to any hereditament has effect as an appeal to a valuation and community charge tribunal, the tribunal may determine"
section 76(4)	<p>"the court shall not hear the first-mentioned appeal"</p> <p>"an appeal to a local valuation court"</p> <p>"any witness before the court"</p>	<p>"the tribunal shall not determine the first-mentioned appeal"</p> <p>"an appeal to a valuation and community charge tribunal"</p> <p>"any witness before the tribunal"</p>

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
section 76(5)	from "after hearing" to "shall give such directions"	"after considering the written representations of the parties mentioned in subsection (4) of this section, or such of them wish to make representations, or, as the case may be, hearing them or such of them as desire to be heard, the tribunal shall give such directions"
	"that contention appears to the court"	"that contention appears to the tribunal"
section 77	From the beginning to "the decision of the court"	"Any person who in pursuance of section 76 of this Act appears before a valuation and community charge tribunal on the hearing of an appeal, or any person who made representations in an appeal determined on the basis of written representations, who is aggrieved by the decision of the tribunal"
	"such of the persons as appeared"	"such of the persons as appeared or made representations"
	"any directions which the local valuation court might have given"	"any directions which the tribunal might have given"
section 78(1)	"before a local valuation court"	"before a valuation and community charge tribunal"
	"heard or determined by such a court"	"heard or determined by such a tribunal"
section 78(3)	"given by the local valuation court"	"given by the tribunal"
section 83(5)(b)	"to produce to him at the hearing"	"to produce to him at any hearing"
section 83(6)	"the court or tribunal"	"the tribunal"
section 83(7)	"proceedings before a court"	"proceedings before a tribunal"
section 83(8) section 83(9)	} "a local valuation court"	"a valuation and community charge tribunal"
section 88	The whole section	<p>"(5) Subject to subsection (6) of this section, the tribunal as constituted to hear or determine an appeal shall consist of—</p> <p>(a) a chairman appointed as provided by regulations for the time being in force under Schedule 11 to the Local Government Finance Act 1988, and</p> <p>(b) two other members of the tribunal.</p> <p>(6) With the consent of all the persons appearing before a tribunal on the hearing of an appeal, the appeal may be heard and determined by any two of the persons mentioned in subsection (5) of this section; but if the members of a tribunal so constituted are unable to agree on a decision, the appeal shall be reheard by a differently constituted tribunal."</p>

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
section 93(1)	“a local valuation panel or local valuation court”	“a valuation and community charge tribunal”
section 108(1)(c)	“any local valuation court”	“any local valuation court or valuation and community charge tribunal”
LOCAL GOVERNMENT ACT 1974(a)		
section 21(3)	“the court or arbitrator”	“the tribunal or arbitrator”
RATING (DISABLED PERSONS) ACT 1978(b)		
section 2(5B) Schedule 1 paragraph 11(2)	} from “may appeal” to “the court may”	“may appeal to the valuation and community charge tribunal by sending a notice in writing to the clerk of the tribunal having jurisdiction in relation to the hereditament in question in accordance with regulations under Schedule 11 to the Local Government Finance Act 1988; and the tribunal may”
section 2(5C)		“Section 76(2) to (2B) and (4) and section 77 of the said Act of 1967 (procedure of valuation and community charge tribunal and right of appeal to Lands Tribunal) shall, with the necessary modifications, apply to the proceedings and jurisdiction of a valuation and community charge tribunal under this section.”
Schedule 1 paragraph 11(3)	The whole sub-paragraph	“Section 76(2) to (2B) and (4) and section 77 of the said Act of 1967 (procedure of valuation and community charge tribunal and right of appeal to Lands Tribunal) shall, with the necessary modifications, apply to the proceedings and jurisdiction of a valuation and community charge tribunal under this paragraph.”
RATING APPEALS (LOCAL VALUATION COURTS) REGULATIONS 1956(c)		
regulation 2	the definition of “court”	“‘tribunal’, unless the context otherwise requires, means the members of a valuation and community charge tribunal appointed in pursuance of regulations under Schedule 11 to the Local Government Finance Act 1988 to determine an appeal”
	the definition of “chairman”	“‘chairman’ means the person presiding at a sitting of a tribunal”
	the definition of “the clerk”	“‘the clerk’ means the clerk of the valuation and community charge tribunal from which the tribunal to determine the appeal is constituted”
	the definition of “party”	“‘party’ means a person who appears or is entitled to appear at the hearing of the appeal, or who would have been so entitled had he not agreed that the appeal should be determined by written representations.”

(a) 1974 c.7.

(b) 1978 c.40, as amended by paragraph 22 of Schedule 1 to the Rates Act 1984 (c.33).

(c) S.I. 1956/632.

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
regulation 3	<p>“The court to hear and determine”</p> <p>“or to hear and determine”</p> <p>“that local valuation panel”</p> <p>“the area of any other local valuation panel”</p> <p>“the appeal shall be heard and determined by a court consisting of members of such one of the panels”</p>	<p>“The tribunal to determine”</p> <p>“or to determine”</p> <p>“that valuation and community charge tribunal”</p> <p>“the area of any other such tribunal”</p> <p>“the appeal shall be determined by such one of the tribunals”</p>
regulation 4	<p>“fixed for the hearing of an appeal”</p> <p>“a court will sit”</p> <p>“the offices of the local valuation panel”</p>	<p>“fixed for any hearing of an appeal”</p> <p>“a tribunal will sit”</p> <p>“the office of the valuation and community charge tribunal”</p>
regulation 5	<p>“no member of the local valuation panel from which the court is constituted”</p>	<p>“no member of the valuation and community charge tribunal hearing the appeal”</p>
regulations 6 to 9 regulation 10(2) and (3) regulation 11 regulation 12	<p>“the court”</p>	<p>“the tribunal”</p>
regulation 10(1)	<p>from “the decision of the majority” to the end of the paragraph</p>	<p>“the decision of the majority of the members of the tribunal determining the appeal shall be the decision of the tribunal.”</p>

MIXED HEREDITAMENT (CERTIFICATE) REGULATIONS 1967(a)

regulation 6(1)	<p>from “to the clerk” to “fall to be constituted”</p>	<p>“to the clerk of the valuation and community charge tribunal which would in accordance with regulations under Schedule 11 to the Local Government Finance Act 1988 have jurisdiction”</p>
regulation 6(2) regulation 6(3)	<p>“the clerk to the local valuation panel”</p>	<p>“the clerk of a valuation and community charge tribunal”</p>
regulation 6(3)	<p>“an appeal to the local valuation court”</p>	<p>“an appeal to the valuation and community charge tribunal”</p>

(a) S.I. 1967/637.

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
regulation 7(1)	The whole paragraph	<p>“(1) Where by virtue of the foregoing regulation the sending of a certificate has effect as an appeal to a valuation and community charge tribunal, it shall be the duty of the president of that tribunal to make arrangements for an appeal under these regulations to be heard and determined.</p> <p>(1A) The procedure of a valuation and community charge tribunal shall, subject to the Rating Appeals (Local Valuation Courts) Regulations 1956 as applied and adapted by the Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989 and to this regulation, be such as the tribunal may determine; and the tribunal—</p> <p>(a) shall sit in public, unless the tribunal otherwise order on the application of any party to the appeal and upon being satisfied that the interests of that party would be prejudicially affected; and</p> <p>(b) may take evidence on oath and shall have power to administer oaths.”</p>
regulation 7(2)	“an appeal to a local valuation court” “any witness before the court”	“an appeal to a valuation and community charge tribunal” “any witness before the tribunal”
regulation 7(3)	“the local valuation court may confirm”	“the tribunal may confirm”
regulation 8(1)	from “who in pursuance of” to “the decision of the court thereon”	“who in pursuance of regulation 7 of these regulations appears before a valuation and community charge tribunal on the hearing of an appeal and is aggrieved by the decision of the tribunal”
regulation 8(2)	“or the local valuation court”	“or the valuation and community charge tribunal”

2. The Local Valuation Panels (Jurisdiction) Regulations 1967(a) shall be amended by the substitution for references to a local valuation panel or a local valuation court of references to a valuation and community charge tribunal.

3.—(1) In the Lands Tribunal Rules 1975(b)—

(a) in rule 2—

(i) in the definitions of “drainage rates appeal” and “rating appeal”, after “local valuation court” there shall be added “or valuation and community charge tribunal”;

(ii) for the definition of “valuation proceedings” there shall be substituted—

“‘valuation proceedings’ means proceedings before a local valuation court or a valuation and community charge tribunal, or proceedings begun before a local valuation court and continued before a valuation and community charge tribunal;”

(b) for the references to a local valuation court in rules 9(1), 37, 42(1) and 54(2), in Form 2 in Schedule 1 and item 6 of Schedule 2 there shall be substituted a reference to a valuation and community charge tribunal.

(2) The amendments made by paragraph (1)(b) shall not have effect in relation to decisions of a local valuation court made before the transfer date.

(a) S.I. 1967/636.

(b) S.I. 1975/299.

PART II

LAND DRAINAGE APPEALS

4. The Land Drainage Act 1976(a) shall be amended as indicated in Table 2.

TABLE 2

(1)	(2)	(3)
<i>Provision</i>	<i>Words to be replaced</i>	<i>Words substituted</i>
section 78(5)	paragraphs (a) and (b)	<p>“ (a) the clerk of the valuation and community charge tribunal established in accordance with regulations under Schedule 11 to the Local Government Finance Act 1988 for the area in which the land to which the determination relates is situated, or</p> <p>(b) where different parts of that land are situated in different areas for which such tribunals are established, the clerk of such one of those tribunals as may be determined by or under the Drainage Rates (Appeals) Regulations 1970.”</p>
section 78(6)	“a local valuation court”	“a valuation and community charge tribunal”
section 79(1)	subsections (1) and (2)	<p>“(1) It shall be the duty of the president of the valuation and community charge tribunal to whose clerk a notice of objection is transmitted in pursuance of section 78 above to arrange for the appeal to which the notice relates to be heard and determined; and subsections (5) and (6) of section 88 of the General Rate Act 1967 shall apply to the constitution the tribunal to hear and determine the appeal and to the rehearing of the appeal in case of such failure to agree as is mentioned in the said subsection (6).</p> <p>(2) The procedure of a valuation and community charge tribunal shall subject to the Drainage Rates (Appeals) Regulations 1970 be such as the tribunal may determine; and the tribunal—</p> <p>(a) shall sit in public, unless the tribunal otherwise orders on the application of any party to the appeal and upon being satisfied that the interests of that party would be prejudicially affected; and</p> <p>(b) may take evidence on oath and shall have power to administer oaths.”</p>

(a) 1976 c.70.

(1) <i>Provision</i>	(2) <i>Words to be replaced</i>	(3) <i>Words substituted</i>
section 79(3) and (5)	“a local valuation court”	“a valuation and community charge tribunal”
section 79(4)	“The court to which an appeal is brought”	“The tribunal which is convened to determine an appeal”

5. The Drainage Rates (Appeals) Regulations 1970(a) shall have effect as if they were amended as follows:—

- (i) in regulation 2, by the substitution of the definitions set out in column 2 of Table 3 for the definitions mentioned in column 1:

TABLE 3

(1)	(2)
“the court”	“ ‘the tribunal’ means the valuation and community charge tribunal convened under section 79(1) of the Land Drainage Act 1976 to hear and determine the appeal;”
“the chairman”	“ ‘the chairman’ means the member of the tribunal presiding at the hearing;”
“panel area”	“ ‘tribunal area’ means the area for which a valuation and community charge tribunal is established in accordance with regulations under Schedule 11 to the Local Government Finance Act 1988;”
“prescribed panel”	“ ‘prescribed tribunal’ has the meaning assigned to it by regulation 3;”
“relevant panel area”	“ ‘relevant tribunal area’, in relation to a divided hereditament, means a tribunal area in which a part of the hereditament is situated;”

- (ii) in regulation 2, by the omission of the definition of “panel” and by the substitution of “tribunal area” for “panel area” in the definition of “undivided hereditament”;
- (iii) in regulations 3 to 9 and 11 to 16 by the substitution of the words in column 2 of Table 4 for the words in column 1:—

TABLE 4

(1)	(2)
“the panel”	“the valuation and community charge tribunal”
“panel area”	“tribunal area”
“prescribed panel”	“prescribed tribunal”
“relevant panel area”	“relevant tribunal area”
“the court”	“the valuation and community charge tribunal”.

(a) S.I. 1970/1152. The Regulations have effect as if made under the Land Drainage Act 1976 by virtue of paragraph 6 of Schedule 6 to that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 3 of these Regulations provides for the transfer to the tribunals established by the Valuation and Community Charge Tribunals Regulations 1989 (S.I. 1989/439) of the jurisdiction of local valuation courts to hear and determine appeals and applications in connection with—

- (a) the valuation of property for rating, under the General Rate Act 1967 (“the 1967 Act”);
- (b) the amounts of rateable value attributable to such parts of institutions as are used for the care and welfare of the disabled, under the Rating (Disabled Persons) Act 1978;
- (c) certificates as to the proportion of a mixed hereditament used for the purposes of a private dwelling, in connection with entitlement to domestic rate relief under section 48 of the 1967 Act; and
- (d) valuation for drainage rates under the Land Drainage Act 1976.

The transfer is to take place on 1st May 1989, on which date the local valuation courts are wound up.

Regulation 4 makes transitional provision in relation to appeals and applications instituted or made before that date, and includes provision for determining which tribunal is to deal with each. It also introduces Schedule 1, which makes provision for the transfer of local valuation panel staff to the employment of the tribunals.

Regulation 5 makes provision for savings and repeals, and introduces Schedule 2, which in addition to making provision consequential on the transfer of jurisdiction to the tribunals amends the General Rate Act 1967 so that appeals provided for by or under that Act and the Rating (Disabled Persons) Act 1978 can be dealt with, where the parties so agree, by written representations instead of at a hearing.