

# OFFICE OF THE DEPUTY PRIME MINISTER

## *Limitations in Relation to Membership of Valuation Tribunals*

1. The enclosed consultation paper seeks views on proposals to amend the Valuation and Community Charge Tribunals Regulations 1989 (SI 1989/439). Annex A to the consultation paper details specific issues on which views are particularly sought. A copy of the consultation paper and this covering note are also available on the web site of the Office of the Deputy Prime Minister at the following address:  
  
<http://www.local.odpm.gov.uk/vtmember.pdf>
2. Copies of the covering note and consultation paper have been sent to local authorities in England, the Valuation Tribunals and to other parties that have expressed an interest in issues related to Valuation Tribunals. Responses from other interested groups or individuals are also welcome.
3. The Government considers that the amendments proposed in the enclosed paper will not have any impact on business or the charitable sector, since they relate solely to the limitations on individuals membership of valuation tribunals.

## Responses and Enquiries

4. Responses to this consultation document should be sent (if possible by e-mail) **BY 12 SEPTEMBER 2003** to:

Paulette Coghiel  
Local Government Finance Division 2  
Office of the Deputy Prime Minister  
Zone 5/J2  
Eland House  
Bressenden Place  
London SW1E 5DU

Fax: 020 7944 4209

E-mail: [valuation.tribunal@odpm.gsi.gov.uk](mailto:valuation.tribunal@odpm.gsi.gov.uk)

5. Any enquiries or requests for copies of the paper and covering note should be directed to Paulette Coghiel at the above address.
6. The Department may wish to publish responses to this consultation exercise in due course or deposit them in its libraries. If so, all responses received will be published or deposited, unless a respondent specifically asks the Department to treat their response as confidential. Confidential

responses will, nevertheless be included in any statistical summary of the numbers of comments received and views expressed.

### Comments and Complaints

7. This consultation is being undertaken in accordance with the *Code of Practice on Written Consultation*; the main consultation criteria are set out in the note enclosed below. Any comments or complaints about the consultation procedure should be sent to:

Siobhan Benita  
ODPM Consultation Co-ordinator  
Room 3/17  
26 Whitehall  
LONDON SW1A 2WH

E mail address: [siobhan.benita@odpm-dft.gsi.gov.uk](mailto:siobhan.benita@odpm-dft.gsi.gov.uk)

ODPM  
Local Government Finance Directorate  
June 2003

## **Code of Practice on Written Consultation - Main Consultation Criteria**

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator that will ensure the lessons are disseminated.

## ***Consultation on Limitations in Relation to Membership of Valuation Tribunals***

1. The Local Government Bill that is currently before Parliament provides for the establishment of a new Non Departmental Public Body, the Valuation Tribunals Service (VTS). The aim is for the VTS to be established as from 1 April 2004.
2. In advance of establishment of the VTS, this consultation paper seeks views on the Government's proposals to make amendments to the Valuation and Community Charge Tribunals Regulations 1989 (SI 1989/439) as amended (the 1989 Regulations) in respect of 3 aspects of disqualification from membership of a valuation tribunal (NB. The proposed amendments to the 1989 Regulations will apply to valuation tribunals in England only):
  - Age limit for members of valuation tribunals;
  - Period of appointment as a member;
  - Disqualified local authority councillors;
3. In addition the amendments to the 1989 Regulations will introduce new bankruptcy provisions that take account of changes consequent on the Enterprise Act 2002.
4. The Government does not propose to make any other amendments to the 1989 Regulations in advance of the establishment of the VTS.
5. Following the completion of the consultation period and analysis of responses, the Government aims during autumn 2003 to lay an order before Parliament amending the 1989 Regulations in respect of these 4 areas. A draft order based on the proposals set out in this consultation paper is at Annex B.

### Age limit for members of valuation tribunals

6. The 1989 Regulations currently prescribe at regulations 6(2)(d) and 9(1)(e) that an individual may not hold office or be appointed to serve as a member of a valuation tribunal once they reach the age of 72.
7. EU Directive 2000/78/EC, a framework directive for equal treatment in employment and occupation which has to be implemented in the UK by 2 December 2003 provides for the combating of discrimination on the grounds of religion, or belief, disability, age or sexual orientation in employment or occupation. Two sets of draft regulations were laid before Parliament on 8 May 2003, one prohibits discrimination in employment or occupation on the grounds of sexual orientation and the other prohibits discrimination on the grounds of religion or belief. Although valuation

tribunal members are unlikely to be covered by the requirements of the Directive as they are not employed by valuation tribunals, the Government takes the view that removal of the age limit altogether would be in line with the spirit of the Directive. The Government therefore proposes that the age limit on membership of tribunals should be removed altogether. This would also be in line with the arrangements proposed for membership of the VTS as set out paragraph 2 schedule 4 to the Local Government Bill.

#### Period of appointment as a member

8. Regulation 6(1) of the 1989 Regulations provides that a member of a valuation tribunal may be appointed for a period not exceeding six years. The Government proposes that the period of appointment for members should be reduced to a maximum of three years.
9. Although regulation 6(1) provides that members may be appointed for periods of less than 6 years, in practice appointments are often for the maximum period allowed. The Government takes the view that if the current age restriction on tribunal members is to be removed, it would also be appropriate for the period of appointments to be set at a maximum of 3 years. This would allow a regular review of members and those who are performing well could be re-appointed. Coupled with the new Valuation Tribunal Member Appraisal System, a maximum period of appointment of 3 years would ensure that under performing members were not retained for long periods. It would also mean that the maximum membership period for a member of a valuation tribunal was the same as for a member of the VTS (see paragraph 3(2) of schedule 4 to the Local Government Bill).

#### Disqualified local authority councillors

10. Regulation 9(1) of the 1989 Regulations sets out the circumstances in which a tribunal member may be disqualified. Paragraph 9(1)(d) says that a person disqualified from being a member of a local authority (ie, a councillor) under sections 19 and 20 of the Local Government Finance Act 1982 shall also be disqualified from membership of a valuation tribunal. However, that part of the 1982 Act was repealed by the Audit Commission Act 1998 and has been replaced by the wider provisions in the Local Government Act 2000. Section 79 of the 2000 Act provides for disqualification of a member of a local authority by case tribunals following a failure by the member to comply with the authority's code of practice and an investigation and adjudication by the case tribunal.
11. Section 19(2)(b) of the Local Government Finance Act 1982 provided that a court might disqualify a member of a local authority if it appeared to an auditor auditing accounts that an item was unlawful, the expenditure exceeded £2,000 and the person authorising it was the member concerned. Section 20(4) provided that where it appeared to the auditor that a person had failed to bring a sum into account or that a loss had been incurred by the wilful misconduct of a person, the auditor would certify that sum. If the sum certified was caused by the wilful misconduct of

a person who was a member of a local authority and the sum certified exceeded £2,000, the person could be disqualified for five years.

12. A member of a local authority can now be disqualified for breach of the authority's code of practice. This means that he could be disqualified from being a member of a valuation tribunal in relation to many more matters than particular financial irregularity. The Local Authorities (Model Code of Conduct) (England) Order 2002 SI 2001/3575, as amended, contains a model code of conduct at Schedule 1. It is wide ranging and includes for example:

- an obligation at paragraph 2(b) to treat others with respect;
- an obligation at paragraph 4 on a member not to conduct himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute; and
- a duty on members under paragraph 17 to declare gifts or hospitality over the value of £25.

Disqualification from membership of a local authority is expected to result only from non-compliance with the code of conduct for the most serious of matters.

13. The Government is concerned that it might be perceived as unfair to replace the references to sections 19 and 20 of the Local Government Finance Act 1982 with a reference to section 79 of the Local Government Act 2000. Such an amendment would mean that a valuation tribunal member could in theory be disqualified for what might be regarded as a significantly less serious matter than was previously the case.

14. The Government has therefore considered whether automatic disqualification from serving on valuation tribunals for disqualified local authority members should be removed. While this option would be similar to the arrangements proposed for disqualification from the VTS (as set out in Schedule 4 to the Local Government Bill currently before Parliament) there are certain differences.

15. Once established, it is proposed that a member of the VTS would be subject to their own Code of Conduct. Non compliance with the Code may result in the Secretary of State exercising the power proposed at paragraph 4(2) to Schedule 4 of the Local Government Bill to remove a person from office in the VTS. However there is at present no similar code of conduct proposed for members of valuation tribunals and removal of valuation tribunal members requires a direction from the Secretary of State as set out at regulations 6(3) and 6(3A) of the 1989 Regulations.

16. The Government is minded to continue to have an automatic disqualification from being a member of a valuation tribunal for any person disqualified from being a member of a local authority (ie. a councillor) because in practice it is expected that disqualification will result for non-compliance with the code of conduct for the most serious of matters.

Views are however sought about this proposal and arguments invited for removal of the automatic disqualification. The enclosed draft order amending the 1989 Regulations (Annex B) has been drafted on the basis that the Regulations should continue to require disqualification from a valuation tribunal for disqualified councillors. Specifically, the draft order amends paragraph 9(1)(d) of the Regulations so that the references to section 19 and 20 of the 1982 Act are replaced by reference to section 79 of the Local Government Act 2000.

### Bankruptcy

17. Section 257 of the Enterprise Act 2002 inserts a new section 281A and schedule 4A into the Insolvency Act 1986. These will provide for new arrangements for bankruptcy in England and in particular for the establishment of bankruptcy restriction orders. It is thought that these changes are likely to come into effect from 1 April 2004. Regulation 9 of the 1989 regulations currently provides for disqualification of a person from membership of a valuation tribunal if he has been adjudged bankrupt or he has made an arrangement with his creditors and will therefore need to be updated, as regards being adjudged bankrupt in England. Views are invited on the Governments proposals as set out below.
18. As set out in the enclosed draft (Annex B)The Government proposes to amend the 1989 Regulations by amending:
  - paragraph 9(1)(a) so that it provides that a person will be disqualified if he is the subject of a bankruptcy restriction order or interim order;
  - paragraph 9(1)(b) by providing that a person will be disqualified if a bankruptcy order has been made against him in a court in Northern Ireland, his estate has been sequestrated by a court in Scotland or, under the law of Northern Ireland and Scotland, he has made a composition or arrangement with, or granted a trust deed for his creditors; and
  - paragraphs 9(2) and (3) will be amended correspondingly.
19. The Government proposes that the necessary amendments to the 1989 Regulations in respect of the new bankruptcy provisions consequent upon amendments to the Insolvency Act 1986 made by the Enterprise Act 2002 will be achieved through the enclosed draft regulations (Annex B). It is proposed that these provisions should have a commencement date of 1 April 2004 to coincide with other regulatory changes consequent on the 2002 Act.

Office of the Deputy Prime Minister  
June 2003

Specific Issues on which views are requested

1. **PARAGRAPHS 5 – 6**

Should the age limit for members of valuation tribunals be removed?

2. **PARAGRAPHS 7 – 8**

Coupled with the proposal to remove the age limit for members of valuation tribunals, should the maximum period for membership of a valuation tribunal be reduced from 6 years to 3 years?

3. **PARAGRAPHS 9 – 15**

Should a member of a valuation tribunal be disqualified if he has been disqualified as a member of a local authority (ie. as a councillor) in view of the arrangements set out in the Local Government Act 2000 for disqualification of local authority members?

Draft Regulations - June 2003

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STATUTORY INSTRUMENTS

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2003 No. [.....]

**COUNCIL TAX, ENGLAND**

**RATING AND VALUATION, ENGLAND**

The Valuation Tribunals (Amendment) (England) Regulations  
2003

*Made* - - - - [.....] 2003

*Laid before Parliament* [.....] 2003

*Coming into force* - - in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred upon him by paragraphs 1 and 5 of Schedule 11 to the Local Government Finance Act 1988<sup>(1)</sup> hereby makes the following Order:

**Citation, commencement and extent**

1. These Regulations, which apply to valuation tribunals in England only, may be cited as the Valuation Tribunals (Amendment) (England) Regulations 2003 and shall come into force—

- (a) for the purposes of regulations 4(a), (b), (c), (e) and (f) on 1 April 2004;
- (b) for all other purposes on [insert date].

**Amendment of Regulations**

2. The Valuation and Community Charge Tribunals Regulations 1989<sup>(2)</sup> “the principal Regulations” are amended as provided in regulations 3 to 4.

3. In regulation 6 (duration of membership)—

- (a) in paragraph (1), substitute the word “three” for the word “six”;
- (b) omit paragraph (2)(d).

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<sup>(1)</sup> 1988 c.41. The relevant powers are devolved, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the reference to the Local Government Finance Act 1988 in Schedule 1.

<sup>(2)</sup> S.I. 1989/439, which by virtue of S.I. 1995/3056 applies to valuation tribunals in England only. Other relevant amendments are made by S.I. 1995/363, 1997/75 and 2000/409. Valuation and community charge tribunals were re-named valuation tribunals by section 15(1) of the Local Government Finance Act 1992.

**4. In regulation 9 (disqualification from membership)—**

(a) substitute for paragraph (1)(a)—

“(a) he is the subject of a bankruptcy restrictions order or interim order;” ;

(b) substitute for paragraph (1)(b)—

“(b) a bankruptcy order has been made against him by a court in Northern Ireland, his estate has been sequestrated by a court in Scotland or, under the law of Northern Ireland or Scotland, he has made a composition or arrangement with, or granted a trust deed for, his creditors;”;

(c) substitute for paragraph (1)(d)—

“(d) is for the time being disqualified from being a member of a local authority in pursuance of section 79 of the Local Government Act 2000; or”;

(d) omit paragraph (1)(e);

(e) substitute for paragraph (2)—

“(2) Where a person is disqualified under sub-paragraph (1)(b) because a bankruptcy order has been made against him or his estate has been sequestrated, the disqualification shall cease—

(a) on his obtaining a discharge, or

(b) if the bankruptcy order is annulled or the sequestration of his estate is recalled or reduced, on the date of that event.”; and

(f) substitute for paragraph (3)—

“(3) Where a person is disqualified under sub-paragraph (1)(c) because of his having made a composition or arrangement with, or granted a trust deed for, his creditors, the disqualification shall cease—

(a) at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled, or

(b) if before then he pays his debts in full, on the date on which the payment is completed.”

**Transitional provisions**

**5.—**(1) Paragraph (2) applies for the purpose of the amendments made to the principal Regulations which come into force on 1<sup>st</sup> April 2004, “the amendments”.

(2) Where a person, on 1<sup>st</sup> April 2004, is subject to a bankruptcy order made by a court in England or Wales, the principal Regulations shall continue to apply, as if the amendments had not been made.

Signed by authority of the First Secretary of State

Address

Date

*Name*

Minister of State

Office of the Deputy Prime Minister

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations amend the Valuation and Community Charge Tribunals Regulations 1989 (S.I. 1989/439.)

The period of appointment for a member of a tribunal is reduced from six to three years.

The age limit of 72 years for appointments is removed. The corresponding disqualification from membership on reaching the age of 72 years is removed.

The disqualification provisions for those persons who have been adjudged bankrupt or who have made arrangements with their creditors are amended in light of the changes to the Insolvency Act 1986 made by the Enterprise Act 2002 which are due to come into force on 1 April 2004. Section 257 of the Enterprise Act 2002 will insert a new section 281A and Schedule 4A into the Insolvency Act 1986. These will provide new arrangements for bankruptcy in England and Wales and in particular for the introduction of a new regime of bankruptcy orders to deal with those bankrupts whose conduct has been found to be irresponsible or reckless. From 1 April 2004 a person will be disqualified from being a member of a valuation tribunal if a bankruptcy restrictions order or interim order has been made against him by a court in England and Wales. The existing provisions in relation to those persons adjudged bankrupt in Scotland and Northern Ireland or those who have made arrangements with their creditors in those jurisdictions are retained.

The disqualification provision for those persons who are disqualified from being a member of a local authority are updated to refer to section 79 of the Local Government Act 2000.

A transitional provision is included so that if a person is subject to a bankruptcy order on 1<sup>st</sup> April 2004, made by a court in England or Wales, he will continue to be disqualified until his discharge or earlier annulment of the order, as if the amendments as to bankruptcy disqualification had not been made.