
STATUTORY INSTRUMENTS

1996 No. 1880

**The Local Authorities (Contracting Out of Tax Billing,
Collection and Enforcement Functions) Order 1996**

PART VI

NON-DOMESTIC RATING: CONTRACTING OUT

Interpretation of Part

48.—(1) In Parts VI and VII of this Order—

“the Act” means the Local Government Finance Act 1988(1);

“authority” has the same meaning as in section 144(2) of the Act (interpretation: authorities)(2);

“the Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(3);

“the 1990 Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990(4); and

“the Schedule” means Schedule 1 to the Regulations.

(2) Subject to any provision to the contrary made in this Order—

(a) the expressions “the amount payable”, “demand notice”, “ratepayer”, and “relevant year” have the same meanings in Parts VI and VII of this Order as in Part II of the Regulations;

(b) the expressions “debtor” and “liability order” have the same meanings in Parts VI and VII of this Order as in Part III of the Regulations; and

(c) any other expressions used in Part VI or Part VII of this Order which are also used in the Regulations have the same meaning as in the Regulations.

Functions of local authorities

49. The functions of an authority conferred by or under the Act, the Regulations and the the Regulations in relation to the collection and enforcement of non-domestic rates may, to the extent provided for in this Part and subject to the provisions of Part VIII and article 73 of this Order, be exercised by, or by the employees of, such person (if any) as may be authorised to exercise them by the authority whose functions they are.

(1) 1988 c. 41.

(2) Section 144(2), which was substituted by paragraph 81(1) of Schedule 13 to the Local Government Finance Act 1992, provides that “billing authority” has the same meaning as in Part I of the 1992 Act.

(3) S.I. 1989/1058; relevant amendments have been made by S.I. 1991/141, S.I. 1992/1512 and S.I. 1993/616. There are other amendments which are not relevant to this Order.

(4) S.I. 1990/145; amended by S.I. 1993/616, S.I. 1993/774 and S.I. 1993/894. See also article 3 of, and Part II of Schedule 2 to, the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1993 (S.I. 1993/616); for the words “charging authority”(wherever they occur in the Regulations) there are substituted the words “billing authority”.

Notices

50. Where under an authorisation given by virtue of this Part a contractor is authorised to serve any notice which is required or authorised by the Regulations to be served on any person, the contractor may also be authorised—

- (a) subject to articles 64, 65 and 66, to determine the form and the manner of service of the notice in question;
- (b) to determine any period which is required or authorised by the Regulations to be specified in the notice; and
- (c) where the notice requires the person on whom the notice is served to make a payment, to accept any amount paid in compliance with the notice.

Demand notices and payments of non-domestic rates

51.—(1) In this article, “relevant conditions” means the conditions mentioned in section 43(1) of the Act (occupied hereditaments: liability)⁽⁵⁾ or section 45(1) of the Act (unoccupied hereditaments: liability)⁽⁶⁾.

(2) For the purposes of Part II of the Regulations (Billing), an authority may authorise a contractor to identify the ratepayers of the authority, and for the purposes of Part II of the the Regulations (Joint Owners and Occupiers), to identify those hereditaments with respect to which there would at a particular time be more than one occupier or more than one owner.

(3) An authority may authorise a contractor to prepare and serve demand notices and any further notice which is to be treated under the Regulations as if it were a demand notice (where the relevant conditions ceased to be fulfilled as regards the ratepayer and the hereditament concerned, and have been fulfilled again in the relevant year), and where appropriate for these purposes to exercise the functions—

- (a) of determining whether the relevant conditions are fulfilled with respect to any person as regards a hereditament;
- (b) where a person is a ratepayer of the authority as regards more than one hereditament, of serving a single demand notice in relation to the amounts payable with respect to all, or any two or more, of those hereditaments;
- (c) of serving a demand notice before the beginning of the chargeable financial year to which the notice relates;
- (d) subject to paragraph (4) below, of estimating or calculating the amount payable for a chargeable financial year or part of a chargeable financial year in relation to a ratepayer, the authority and a hereditament;
- (e) of determining in accordance with Part I of the Schedule the instalments by which an estimate of the amount payable is required to be paid;
- (f) subject to article 67, of reaching agreement with a ratepayer as to the manner of payment of an estimate of the amount payable and as to provision for the cessation or adjustment of payments, the making of fresh estimates, and the treatment of any sums paid in accordance with the Schedule before the agreement was entered into;
- (g) where regulation 3 of the the Regulations (Joint Owners and Occupiers) applies with respect to a hereditament and the persons who are jointly and severally liable to pay the non-domestic rate are liable as partners or trustees, of giving a notice which falls to be

⁽⁵⁾ Section 43 of the Act was amended by paragraph 60 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

⁽⁶⁾ Section 45 of the Act was amended by paragraph 23 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42) and paragraph 63 of Schedule 13 to the Local Government Finance Act 1992.

given under Part II of the Regulations (Billing) severally to each or any of the owners or occupiers concerned, or jointly to the partnership or trust;

- (h) where a notice which falls to be given under Part II of the Regulations is given to more than one person in respect of the same amount, of notifying that fact to each such person; and
- (i) where, under Part II of the Regulations as applied by regulation 3 of the the Regulations, there falls to be repaid a sum paid under a notice given to any persons jointly and severally liable as partners or trustees, of repaying the sum in question to any one or more of those persons.

(4) For the purposes of section 47 of the Act (discretionary relief)(7) and section 49 of the Act (reduction or remission of liability)(8), an authority may authorise a contractor to determine any amount which a ratepayer would, apart from those sections, be liable to pay by way of non-domestic rate, but may not authorise a contractor to exercise any other functions relating to the determination of a ratepayer's entitlement under those sections to any relief or reduction or remission of liability.

Cessation and adjustment of instalments

52. Subject to article 73, an authority may authorise a contractor to exercise the functions—

- (a) of determining whether on any day (“the relevant day”) after the service of a demand notice the conditions mentioned in section 43(1) or 45(1) of the Act have ceased to be fulfilled as regards the ratepayer and the hereditament to which the demand notice relates;
- (b) of calculating the amount payable in relation to the hereditament for the period in the relevant year up to the relevant day, and preparing and serving on the ratepayer a notice stating that amount;
- (c) where the amount stated in such a notice is less than the aggregate amount of the instalments paid before the relevant day, of repaying the overpayment or crediting the overpayment against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate;
- (d) of revising an estimate in a demand notice of the amount payable on the ground that any factor or assumption by reference to which the estimate was calculated is shown to be false;
- (e) of determining the amount of a revised estimate and adjusting the instalments, if any, payable with respect to that estimate on or after the day 14 days after the day of issue of the notice served as mentioned in paragraph (f) below (“the adjustment day”);
- (f) of preparing and serving on the ratepayer who is liable to pay the amount of the revised estimate a notice stating the amount of that estimate and the amount of any remaining instalment; and
- (g) of repaying any amount by which a revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, or crediting the amount in question against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate.

Failure to pay instalments

53.—(1) In this article, the expressions “appropriate amount” and “estimated amount” have the same meanings as in regulation 8 of the Regulations.

(2) Subject to article 73, an authority may authorise a contractor to exercise the functions—

(7) Section 47 of the Act was amended by paragraph 26 of Schedule 5 to the Local Government and Housing Act 1989 and paragraph 65 of Schedule 13 to the Local Government Finance Act 1992.

(8) Section 49 of the Act was amended by paragraph 27 of Schedule 5 to the Local Government and Housing Act 1989 and paragraph 66 of Schedule 13 to the Local Government Finance Act 1992.

- (a) where any instalment payable under a demand notice in accordance with Part I of the Schedule is not paid, of serving a further notice on the ratepayer stating the instalments required to be paid;
- (b) where, after the service of such a notice, the unpaid balance of the estimated amount in question becomes payable by reason of the ratepayer's failure to pay an instalment, of calculating the amount payable for the relevant year in relation to the hereditament concerned, and the difference between that amount and the estimated amount;
- (c) of preparing and serving a notice stating the amount payable;
- (d) where the amount payable exceeds the estimated amount, of requiring the ratepayer to pay an additional sum equal to the difference, and where the amount payable is less than the estimated amount, of repaying any overpayment or crediting any overpayment against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate;
- (e) of determining whether any factor or assumption by reference to which the estimated amount was calculated in relation to a hereditament is shown to be false, and calculating the appropriate amount with a view to adjusting the ratepayer's liability in respect of the estimated amount;
- (f) of preparing and serving a notice stating the appropriate amount; and
- (g) where the appropriate amount is greater than the estimated amount, of requiring an interim payment from the ratepayer, and where the appropriate amount is less than the amount of the estimated amount paid, of making an interim repayment to the ratepayer.

Demand notices: final adjustment

- 54.** Subject to article 73, an authority may authorise a contractor to exercise the functions—
- (a) after the expiry of a chargeable financial year or part of a chargeable financial year for which an amount is payable in relation to a hereditament by way of non-domestic rate, of preparing and serving a further notice on the ratepayer concerned stating the amount payable for the year or part in relation to the hereditament and adjusting the amounts required to be paid; and
 - (b) where there has been an overpayment in respect of the ratepayer's liability under Part II of the Regulations, of repaying the amount overpaid or crediting it against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate.

Payment of interest

- 55.** Subject to article 68, an authority may authorise a contractor to exercise the functions of—
- (a) determining whether a ratepayer, in relation to his liability to pay anything by way of non-domestic rate, is entitled to a payment by way of interest on any amount;
 - (b) calculating the amount of any interest due to a ratepayer; and
 - (c) making payment of interest due to a ratepayer, or crediting the amount of any interest against any subsequent liability of a ratepayer to pay anything by way of non-domestic rate.

Executors and administrators—non-domestic rates

- 56.** An authority may authorise a contractor to exercise the functions of—
- (a) receiving any sum which the executor or administrator of a deceased person who, at any time before his death, was (or is alleged to have been) subject to a non-domestic rate is liable to pay by virtue of regulations made under section 63 of the Act (death);

- (b) giving to such an executor or administrator a notice requiring the payment of such a sum;
- (c) paying to such an executor or administrator a sum paid by the deceased person before his death in excess of his liability to pay a non-domestic rate or any costs incurred in the enforcement of his liability to pay a non-domestic rate; and
- (d) taking steps for the recovery of any sum from such an executor or administrator.

Liability orders

57. An authority may authorise a contractor to exercise the functions—

- (a) of preparing and serving on any person against whom an application is to be made for a liability order a reminder notice stating every amount in respect of which the application is to be made;
- (b) where regulation 3 of the the Regulations applies with respect to a hereditament and the persons who are jointly and severally liable to pay the non-domestic rate are liable as partners or trustees, of giving a reminder notice severally to each or any of the owners or occupiers concerned, or jointly to the partnership or trust;
- (c) where a reminder notice is given to more than one person in respect of the same amount, of notifying that fact to each such person;
- (d) subject to article 69, of applying to the magistrates' court for a liability order against a person or, where two or more persons are jointly and severally liable as partners or trustees to pay an amount by way of non-domestic rate, against any one or more of those persons; and
- (e) where the sum payable is paid after a liability order has been applied for but before it is made, of requesting the court to make the order in respect of the costs reasonably incurred by the authority in making the application.

Distress

58. Subject to article 70, an authority may authorise a contractor to exercise the functions—

- (a) of taking steps to levy by distress and sale of the debtor's goods the aggregate of any outstanding sum which is or forms part of the amount in respect of which a liability order has been made and a sum determined in accordance with Schedule 3 to the Regulations in respect of charges connected with the distress;
- (b) where a liability order has been made against two or more persons jointly, of levying distress against any one or more of those persons; and
- (c) where the amount mentioned in paragraph (a) above (including charges arising up to the time of the payment or tender) is paid or tendered before any goods are seized, or after goods have been seized in pursuance of the distress, but before sale of those goods, of accepting that amount and, if applicable, making the goods available for collection by the debtor.

Insolvency

59. Subject to article 70, an authority may authorise a contractor for the purposes of collecting non-domestic rates to present to the court—

- (a) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor who is an individual, a petition

for a bankruptcy order to be made against the debtor under section 264 of the Insolvency Act 1986 (who may present a bankruptcy petition)⁽⁹⁾; and

- (b) in respect of an amount equal to any outstanding sum which is or forms part of the amount for which a liability order has been made against a debtor which is a company, a petition for an order to be made under that Act for the winding up of the company.

Security for unpaid rates

60. Subject to article 67, an authority may authorise a contractor to exercise the function conferred under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991⁽¹⁰⁾ of entering into an agreement with a person liable to pay to it an amount under section 43(1) of the Act (occupied hereditaments: liability) or section 45(1) of the Act (unoccupied hereditaments: liability)—

- (a) charging any interest of that person in the hereditament concerned to secure payment of the amount and undertaking to take no steps for a specified period to recover any payment in respect of the amount;
- (b) extending to any further amount the person may become liable to pay to the authority under section 43 or 45 of the Act as regards the hereditament; and
- (c) providing for the payment of interest on sums outstanding or for interest payable to be secured by the charge.

⁽⁹⁾ 1986 c. 45.

⁽¹⁰⁾ S.I. 1991/141; amended by S.I. 1991/228 and S.I. 1993/616.