
WELSH STATUTORY INSTRUMENTS

2016 No. 1247 (W. 295)

RATING AND VALUATION, WALES

The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016

Made - - - - *15 December 2016*

Coming into force - - *31 December 2016*

The Welsh Ministers make the following Regulations in exercise of the power conferred on the Secretary of State by sections 58, 143(1) and 146(6) of the Local Government Finance Act 1988(1) and now vested in them(2).

A draft of these Regulations was laid before, and approved by a resolution of the National Assembly for Wales in accordance with section 143(4) of that Act(3).

In accordance with section 58(9) of that Act, the Welsh Ministers have had regard to the object of securing (so far as practicable) that the aggregate amount payable to the Welsh Ministers and all billing authorities by way of non-domestic rates as regards the financial years falling within the relevant period do not exceed that which the Welsh Ministers consider would be likely to be payable apart from these Regulations.

PART 1

Preliminary: general

Title, commencement and application

1.—(1) The title of these Regulations is the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016.

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- (1) 1988 c. 41. Section 58 was amended by section 117(1) of, and paragraph 68 of Schedule 13 to, the Local Government Finance Act 1992 (c. 14), section 2 of the Non-Domestic Rating Act 1994 (c. 3), section 1 of, and paragraph 5 of Schedule 1 to, the Local Government and Rating Act 1997 (c. 29), section 65(2) of the Local Government Act 2003 (c. 26) and section 2(1) of, and paragraph 3 of Schedule 1 to, the Rating (Empty Properties) Act 2007 (c. 9).
- (2) The powers of the Secretary of State were transferred, 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). The functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (3) The reference to each House of Parliament in section 143(4) of the Act are to be read as a reference to the National Assembly for Wales by virtue of paragraph 34 of Schedule 11 to the Government of Wales Act 2006.

(2) These Regulations come into force on 31 December 2016⁽⁴⁾ and apply in relation to Wales.

(3) These Regulations apply in relation to the period beginning on 1 April 2017 and ending on 31 March 2022 (“the relevant period”).

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Local Government Finance Act 1988;

“base liability” (“BL”) (“*rhwymedigaeth sylfaenol*”, “BL”) is the amount calculated in accordance with regulation 4;

“defined hereditament” (“*hereditament diffiniedig*”) has the meaning given in regulation 3;

“local list” (“*rhestr leol*”) means a list compiled and maintained in accordance with section 41 of the Act⁽⁵⁾;

“notional chargeable amount” (“NCA”) (“*swm tybiannol a godir*”, “NCA”) is the amount calculated in accordance with regulations 6 and 7;

“relevant day” (“*diwrnod perthnasol*”) is a chargeable day falling within the relevant period;

“relevant period” (“*cyfnod perthnasol*”) has the meaning given in regulation 1(3).

Defined hereditament

3. A hereditament is a defined hereditament in respect of a relevant day if it is shown in a local list on—

- (a) 31 March 2017,
- (b) the relevant day, and
- (c) each day, if any, falling after 31 March 2017 and before the relevant day.

PART 2

Preliminary: calculations

Base liability

4. The base liability (“BL”) for a defined hereditament is calculated by applying the formula—

$$\frac{A \times 0.486}{E}$$

Where—

A is the rateable value shown for the defined hereditament in a local list on 31 March 2017, and

E is the amount of E which applies to the defined hereditament on 31 March 2017 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2015⁽⁶⁾.

(4) In accordance with section 58(8) of the Act which requires regulations to come into force before 1 January immediately preceding the financial year to which they apply.

(5) The Rating Lists (Postponement of Compilation) (Wales) Order 2014 (S.I. 2014/1370) (W. 139), made by the Welsh Ministers under section 54A of the Act, specified 1 April 2017 as the date on which local non-domestic rating lists are to be compiled for billing authorities in Wales, instead of 1 April 2015 which is the date on which they would otherwise have to be compiled.

(6) S.I. 2015/229 (W. 11). Amended by the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2016 (S.I. 2016/32) (W. 13).

Notional chargeable amount

5. The notional chargeable amount (“NCA”) for a defined hereditament is calculated in accordance with regulations 6 and 7.

6.—(1) Where on 1 April 2017 section 43(4B)(b) of the Act (small business rate relief) applies to a defined hereditament, the NCA for that defined hereditament is calculated by applying the formula—

$$\frac{A \times B}{E}$$

(2) In all other cases, the NCA for a defined hereditament is calculated by applying the formula—

$$A \times B$$

(3) For the purposes of this regulation—

A is the rateable value shown for the defined hereditament in a local list on 1 April 2017,

B is the non-domestic rating multiplier for the financial year beginning on 1 April 2017 calculated in accordance with paragraph 4B of Schedule 7 to the Act(7), and

E is the amount of E which applies to the defined hereditament on 1 April 2017 in accordance with the Non-Domestic Rating (Small Business Relief) (Wales) Order 2015.

7.—(1) This regulation applies to a defined hereditament where for a day after 1 April 2017 the rateable value shown in a local list for the defined hereditament is different to that shown for it in a local list on 1 April 2017.

(2) From the day on which the change in rateable value has effect, regulation 6 has effect as regards the defined hereditament with the following amendments—

(a) in paragraph (1), for “1 April 2017”, substitute “the day on which the change in rateable value has effect”, and

(b) in paragraph (3), for the definition of ‘A’. substitute “A is the rateable value shown for the defined hereditament in a local list on the day on which the change in rateable value has effect”.

PART 3

Cases to which the prescribed rules apply

8. For the purpose of section 58(2) of the Act, the cases are those that fall within the descriptions prescribed in regulation 9, and do not fall within the descriptions prescribed in regulation 10.

Prescribed descriptions

9. A defined hereditament—

(a) to which, on 31 March 2017, section 43(4B)(b) of the Act applies,

(b) where NCA is greater than the sum calculated by applying the formula—

$$BL + 100, \text{ and}$$

(c) where on the relevant day, the occupier of the hereditament is the same person as the occupier on 31 March 2017.

(7) Paragraph 4B of Schedule 7 to the Act was inserted by section 62(4) of the Local Government Act 2003.

Exceptions

10. A defined hereditament where on the relevant day—
- (a) the chargeable amount would otherwise be zero under section 45A of the Act (unoccupied hereditament: zero-rating), or
 - (b) an apportionment under section 44A(1) of the Act (partly occupied hereditaments) applies to the hereditament and has effect in relation to the chargeable amount.

PART 4**Prescribed rules****Rules for finding the chargeable amount**

11. For the purpose of section 58(3)(a) of the Act, the chargeable amount for a defined hereditament to which regulation 8 applies (cases that fall within the prescribed description) is to be found in accordance with the rules prescribed in regulations 12 to 17.

12. The chargeable amount for a relevant day is the amount calculated in accordance with section 43 or 45 of the Act as appropriate, less the amount calculated under whichever of regulations 14 to 17 applies.

13. If the result of reducing the chargeable amount in accordance with the rules in regulations 14 to 17 is to produce a negative figure, the chargeable amount is zero.

Financial year commencing on 1 April 2017

14. In the financial year commencing on 1 April 2017, the chargeable amount is reduced by an amount calculated by applying the formula—

$$\frac{(NCA - BL) \times 0.75}{365}$$

Financial year commencing on 1 April 2018

15. In the financial year commencing on 1 April 2018, the chargeable amount is reduced by an amount calculated by applying the formula—

$$\frac{(NCA - BL) \times 0.5}{365}$$

Financial year commencing on 1 April 2019

16. In the financial year commencing on 1 April 2019, the chargeable amount is reduced by an amount calculated by applying the formula—

$$\frac{(NCA - BL) \times 0.25}{366}$$

Financial years commencing on 1 April 2020 and 1 April 2021

17. In the financial years commencing on 1 April 2020 and 1 April 2021 the chargeable amount is reduced by zero.

PART 5

Revocations

18. The following Regulations are revoked—

- (a) The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 1999⁽⁸⁾, and
- (b) The Non-Domestic Rating (Chargeable Amounts) (Amendment) (Wales) Regulations 2000⁽⁹⁾.

15 December 2016

Mark Drakeford
Cabinet Secretary for Local Government and
Finance, one of the Welsh Ministers

⁽⁸⁾ S.I. 1999/3454 (W. 51).
⁽⁹⁾ S.I. 2000/2041 (W. 147).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 31 December 2016 and apply in relation to Wales

These Regulations prescribe rules to be used to find the chargeable amount for cases which fall within the descriptions prescribed in the Regulations.

The prescribed rules apply to a chargeable day falling within the period of 5 years beginning on 1 April 2017 and ending on 31 March 2022. A chargeable day is defined in section 43(3) of the Local Government Finance Act 1988 (“the Act”) in terms of occupied hereditaments and section 45(3) in terms of unoccupied hereditaments.

The prescribed rules apply to defined hereditaments. A defined hereditament is a hereditament shown in a local list on 31 March 2017, the relevant day and every day between. Where a hereditament is removed from a local list, subject to any appeals, the prescribed rules do not apply to the hereditament from the day on which the removal took effect. Such a removal would not impact the application of the prescribed rules to the hereditament prior to the day on which the removal took effect.

The prescribed rules reduce the increase in a ratepayer’s liability as a result of the 2017 revaluation. Regulation 4 calculates the chargeable amount for the hereditament on 31 March 2017 (the base liability). This is the day before the new lists compiled on 1 April 2017 have effect. 0.486 is the non-domestic rating multiplier set by the Welsh Ministers for the financial year 2016-17 under paragraph 3B of Schedule 7 to the Act. As regulation 9(a) provides that the rules prescribed in the Regulations only apply where the hereditament is eligible for small business rate relief, the formula to find the base liability includes E. E is the figure prescribed by the Welsh Ministers in the Non-Domestic Rating (Small Business Relief) (Wales) Order 2015 (S.I. 2015/229) (W. 11) which applies to the hereditament in question on 1 April 2017. This Order was made under section 44(9) of the Act.

Regulation 6 provides the formula for finding the notional chargeable amount (“NCA”). This is the chargeable amount which would apply for the defined hereditament on 1 April 2017 if the prescribed rules did not apply. There are two formulae in regulation 6 to reflect the possibility that the prescribed rules could apply to ratepayers in receipt of small business rate relief and ratepayers who, since revaluation, no longer receive such relief.

The formula to find the NCA uses the rateable value, non-domestic rating multiplier and, where necessary, E, as they are on 1 April 2017. The fact that the relevant day for which the chargeable amount is being calculated may be later than 1 April 2017 does not change these figures. This is because the reduction in liability is based on a proportion of the increase in liability between 31 March 2017 and 1 April 2017 due to the compilation of the new lists.

Regulation 7 modifies regulation 6 in the event that a change to the rateable value for a hereditament takes effect during the relevant period but from a day after 1 April 2017. It operates so that the NCA, used for the purposes of regulation 9(b) and the formulae in regulations 14 to 16, is calculated using the new rateable value rather than the rateable value on 1 April 2017. The non-domestic rating multiplier and E will remain as they were on 1 April 2017.

Part 3 prescribes the descriptions of cases to which the prescribed rules apply. Regulation 9(a) limits the application of the prescribed rules to hereditaments which were eligible for small business rate relief before revaluation. Regulation 9(b) provides a de minimis threshold; where liability has increased by £100 or less, there is no reduction in liability under the Regulations. Regulation 9(c) requires the same person to have occupied the defined hereditament in order to be eligible for a

reduction. Where occupation of the hereditament changes on 1 April 2017 or at any later date during the relevant period, the prescribed rules do not apply.

Regulation 10 describes cases where the prescribed rules do not apply. Regulation 10(a) addresses the possibility of an occupier, who is also the owner of a hereditament, ceasing to occupy the hereditament and falling within the cases in section 45A(2) or (3) of the Act (charities and registered community amateur sports clubs). In such a case, the ratepayer's liability would be zero in accordance with section 45A(1) of the Act. Regulation 10(b) addresses where a part of a hereditament is unoccupied and the billing authority has required the valuation officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament under section 44A(1) of the Act. The prescribed rules do not apply to such a case. No reduction in chargeable amount is therefore available where such an apportionment applies to a defined hereditament and has effect in relation to the chargeable amount

Where a defined hereditament is a case which falls within all of the descriptions prescribed in regulation 9 and does not fall within the descriptions in regulation 10, the rules prescribed in regulations 12 to 17 apply. These rules are to be used to find the chargeable amount for a chargeable day.

The first step under regulation 12 is to calculate the chargeable amount for the hereditament under section 43 of the Act for occupied hereditaments and section 45 of the Act for non-occupied hereditaments. The second step is to reduce that amount by the amounts calculated under whichever of regulations 14 to 17 apply.

Regulations 14 to 17 provide a phased reduction in chargeable amounts during the period beginning on 1 April 2017 and ending on 31 March 2020. In the first year, the chargeable amount is reduced by an amount equal to 75% of the increase in liability between 31 March 2017 and 1 April 2017. In the second and third year the chargeable amount is reduced by 50% and 25% respectively of the increase in liability between 31 March 2017 and 1 April 2017. The reduction in chargeable amount is calculated for each relevant day, with the figure 366 used in regulation 16 to reflect that 2020 is a leap year. Regulation 17 provides that during the period beginning on 1 April 2020 and ending on 31 March 2022 the chargeable amount is that found under section 43 of the Act for occupied hereditaments and section 45 of the Act for non-occupied hereditaments (i.e. there is no reduction for those financial years).

Regulation 13 ensures that the prescribed rules do not reduce the chargeable amount below zero.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Finance Policy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.