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## SCHEDULES

### SCHEDULE 5 **E+W**

#### LOCAL GOVERNMENT FINANCE ACT 1988: AMENDMENTS

##### *Non-domestic rating*

- 19 In section 41 (local rating lists) the following subsections shall be inserted after subsection (6)—
- “(6A) As soon as is reasonably practicable after compiling a list the valuation officer shall send a copy of it to the authority.
- (6B) As soon as is reasonably practicable after receiving the copy the authority shall deposit it at its principal office.”
- 20 In section 42 (contents of local lists) in subsection (4) for paragraphs (a) and (b) there shall be substituted “ the rateable value of the hereditament ”.
- 21 (1) Section 44 (occupied hereditaments: supplementary) shall be amended as follows.
- (2) In subsection (2) the words from “or” to the end shall be omitted.
- (3) Subsection (3) shall be omitted.
- 22 The following section shall be inserted after section 44—
- “44A Partly occupied hereditaments.**
- (1) Where a hereditament is shown in a charging authority’s local non-domestic rating list and it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time only the authority may require the valuation officer for the authority to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority.
- (2) The reference in subsection (1) above to the rateable value of the hereditament is a reference to the rateable value shown under section 42(4) above as regards the hereditament for the day on which the authority makes its requirement.
- (3) For the purposes of this section an apportionment under subsection (1) above shall be treated as applicable for any day which—
- (a) falls within the operative period in relation to the apportionment, and
- (b) is a day for which the rateable value shown under section 42(4) above as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment.

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- (4) References in this section to the operative period in relation to an apportionment are references to the period beginning—
- (a) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day on which the hereditament to which the apportionment relates became partly unoccupied, and
  - (b) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day immediately following the end of that period,
- and ending with the first day on which one or more of the events listed below occurs.
- (5) The events are—
- (a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates;
  - (b) the ending of the rate period in which the authority requires the apportionment;
  - (c) the requiring of a further apportionment under subsection (1) above in relation to the hereditament to which the apportionment relates;
  - (d) the hereditament to which the apportionment relates becoming completely unoccupied.
- (6) Subsection (7) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates does not fall within a class prescribed under section 45(1)(d) below.
- (7) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- (2) A is such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament.
- (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.
- (8) Subsection (9) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates falls within a class prescribed under section 45(1)(d) below.
- (9) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- (2) A is the sum of—

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- (a) such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament, and
    - (b) one half of such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament.
  - (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.
  - (10) References in subsections (1) to (5) above to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from local non-domestic rating, shall, except where the reference is to the rateable value of the hereditament, be construed as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating.”
- 23 (1) Section 45 (unoccupied hereditaments: liability) shall be amended as follows.
- (2) In subsection (1)(d) for “description” there shall be substituted “ class ”.
  - (3) The following subsections shall be inserted after subsection (8)—
    - “(9) For the purposes of subsection (1)(d) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
    - (10) Without prejudice to the generality of subsection (9) above, a class may be prescribed by reference to one or more of the following factors—
      - (a) the physical characteristics of hereditaments;
      - (b) the fact that hereditaments have been unoccupied at any time preceding the day mentioned in subsection (1) above;
      - (c) the fact that the owners of hereditaments fall within prescribed descriptions.”
- 24 In section 46 (unoccupied hereditaments: supplementary) in subsection (2) the words from “or” to the end shall be omitted.
- 25 The following section shall be inserted after section 46—

**“46A Unoccupied hereditaments: new buildings.**

- (1) Schedule 4A below (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.
- (2) Where—
  - (a) a completion notice is served under Schedule 4A below, and
  - (b) the building to which the notice relates is not completed on or before the relevant day,then for the purposes of section 42 above and Schedule 6 below the building shall be deemed to be completed on that day.
- (3) For the purposes of subsection (2) above the relevant day in relation to a completion notice is—

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- (a) where an appeal against the notice is brought under paragraph 4 of Schedule 4A below, the day stated in the notice, and
  - (b) where no appeal against the notice is brought under that paragraph, the day determined under that Schedule as the completion day in relation to the building to which the notice relates.
- (4) Where—
- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
  - (b) the building is not occupied on that day,
- it shall be deemed for the purposes of section 45 above to become unoccupied on that day.
- (5) Where—
- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
  - (b) the building is one produced by the structural alteration of an existing building,
- the hereditament which comprised the existing building shall be deemed for the purposes of section 45 above to have ceased to exist, and to have been omitted from the list, on that day.
- (6) In this section—
- (a) “building” includes part of a building, and
  - (b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.”
- 26 (1) Section 47 (discretionary relief) shall be amended as follows.
- (2) In subsection (1)(b) for “regulations under section 57 below or regulations under section 58 below” there shall be substituted “ regulations under section 58 below or any provision of or made under Schedule 7A below ”.
- (3) In subsection (5) for “57 or 58 below” there shall be substituted “ 58 below and of any provision of or made under Schedule 7A below ”.
- 27 In section 49 (reduction or remission of liability) in subsection (3) for the words from “and the effect” to the end of the subsection there shall be substituted “ , the effect of any regulations under section 58 below, and the effect of any provision of or made under Schedule 7A below. ”
- 28 In section 52 (central rating lists) the following subsections shall be inserted after subsection (6)—
- “(6A) As soon as is reasonably practicable after compiling a list the central valuation officer shall send a copy of it to the Secretary of State.
- (6B) As soon as is reasonably practicable after receiving the copy the Secretary of State shall deposit it at his principal office.”
- 29 (1) Section 53 (contents of central lists) shall be amended as follows.

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- (2) In subsection (1) for “a description” there shall be substituted “ one or more descriptions ”.
  - (3) In subsection (2)(b) for “the” there shall be substituted “ any ”.
  - (4) For subsection (4) there shall be substituted the following subsections—
    - “(4) Where regulations are for the time being in force under this section prescribing a description of non-domestic hereditament in relation to a person designated in the regulations (“the previously designated person”), amending regulations altering the designated person in relation to whom that description of hereditament is prescribed may have effect from a date earlier than that on which the amending regulations are made.
    - (4A) Where, by virtue of subsection (4) above, the designated person in relation to any description of non-domestic hereditament is changed from a date earlier than the making of the regulations,—
      - (a) any necessary alteration shall be made with effect from that date to a central non-domestic rating list on which any hereditament concerned is shown; and
      - (b) an order making the provision referred to in paragraph 3(2) of Schedule 6 below and specifying a description of hereditament by reference to the previously designated person shall be treated, with effect from that date, as referring to the person designated by the amending regulations.”
- 30 (1) Section 55 (alteration of lists) shall be amended as follows.
- (2) In subsection (4) (content of regulations)—
    - (a) in paragraph (b) after “as to the” there shall be inserted “ manner and ” and at the end there shall be added “ and the information to be included in a proposal ”;
    - (b) in paragraph (d) for “making” there shall be substituted “ and subsequent to the making of ”; and
    - (c) after paragraph (d) there shall be inserted—
      - “(dd) as to the circumstances within which and the conditions upon which a proposal may be withdrawn”.
  - (3) In subsection (5) (regulations about appeals), for the words from “about” to “its alteration” there shall be substituted “between a valuation officer and another person making a proposal for the alteration of a list—
    - (a) about the validity of the proposal; or
    - (b) about the accuracy of the list”.
- <sup>F1</sup>(4) .....
- (5) The following subsection shall be inserted after subsection (7)—
    - “(7A) The regulations may include provision that—
      - (a) where a valuation officer for a charging authority has informed the authority of an alteration of a list a copy of which has been deposited by the authority under section 41(6B) above, the authority must alter the copy accordingly;

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- (b) where the central valuation officer has informed the Secretary of State of an alteration of a list a copy of which has been deposited under section 52(6B) above, the Secretary of State must alter the copy accordingly.”

**Textual Amendments**

**F1** Sch. 5 para. 30(4) repealed (1.8.1992) by [Local Government Finance Act 1992 \(c. 14\), s. 119\(2\), Sch. 14; S.I. 1992/1755, art. 2\(1\)](#)

- 31 The following section shall be substituted for section 57 (special provision for 1990-95)—

**“57 Special provision for 1990-95.**

Schedule 7A below (which contains special provision for 1990–95) shall have effect.”

- 32 The following section shall be substituted for section 59—

**“59 Contributions in aid.**

Where a contribution in aid of non-domestic rating is made in respect of a Crown hereditament, the contribution shall be paid to the Secretary of State.”

<sup>F2</sup>33 .....

**Textual Amendments**

**F2** Sch. 5 para. 33 repealed (1.4.2000) by [1997 c. 29, s. 33\(2\), Sch. 4; S.I. 1998/2329, art. 3](#)

- 34 In section 65 (owners and occupiers) the following subsection shall be inserted after subsection (8)—

“(8A) In a case where—

- (a) land consisting of a hereditament is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,
- (b) section 64(2) above does not apply, and
- (c) apart from this subsection, the hereditament is not occupied,

the hereditament shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner.”

- 35 (1) Section 67 (interpretation etc.) shall be amended as follows.

<sup>F3</sup>(2) .....

- (3) The following subsection shall be inserted after subsection (9) (power to show class of hereditament in central non-domestic rating list)—

“(9A) In subsection (9) above “class” means a class expressed by reference to whether hereditaments—

- (a) are occupied or owned by a person designated under section 53(1) above, and

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- (b) fall within any description prescribed in relation to him under section 53(1).”

#### Textual Amendments

**F3** Sch. 5 para. 35(2) repealed (1.4.2000) by 1997 c. 29, ss. 33(2), 34(1), Sch. 4; S.I. 1998/2329, art. 3

36 The following Schedule shall be inserted after Schedule 4—

“SCHEDULE  
4A **E+W**

NON-DOMESTIC RATING: NEW BUILDINGS (COMPLETION DAYS)

*Completion notices*

- 1 (1) If it comes to the notice of a charging authority that the work remaining to be done on a new building in its area is such that the building can reasonably be expected to be completed within 3 months, the authority shall serve a notice under this paragraph on the owner of the building as soon as is reasonably practicable unless the valuation officer otherwise directs in writing.
- (2) If it comes to the notice of a charging authority that a new building in its area has been completed, the authority may serve a notice under this paragraph on the owner of the building unless the valuation officer otherwise directs in writing.
- (3) A charging authority may withdraw a notice under this paragraph by serving on the owner of the building to which the notice relates a subsequent notice under this paragraph.
- (4) Where an appeal under paragraph 4 below has been brought against a notice under this paragraph, the power conferred by sub-paragraph (3) above shall only be exercisable with the consent in writing of the owner of the building to which the notice relates.
- (5) The power conferred by sub-paragraph (3) above shall cease to be exercisable in relation to a notice under this paragraph once a day has been determined under this Schedule as the completion day in relation to the building to which the notice relates.
- (6) In this Schedule “completion notice” means a notice under this paragraph.
- 2 (1) A completion notice shall specify the building to which it relates and state the day which the authority proposes as the completion day in relation to the building.
- (2) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is not completed, the authority shall propose as the completion day such day, not later than 3 months from and including the day on which the notice is served, as the authority considers is a day by which the building can reasonably be expected to be completed.

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- (3) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is completed, the authority shall propose as the completion day the day on which the notice is served.

*Determination of completion day*

- 3 (1) If the person on whom a completion notice is served agrees in writing with the authority by whom the notice is served that a day specified by the agreement shall be the completion day in relation to the building, that day shall be the completion day in relation to it.
- (2) Where such an agreement as is mentioned in sub-paragraph (1) above is made, the completion notice relating to the building shall be deemed to have been withdrawn.
- 4 (1) A person on whom a completion notice is served may appeal to a valuation and community charge tribunal against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.
- (2) Where a person appeals against a completion notice and the appeal is not withdrawn or dismissed, the completion day shall be such day as the tribunal shall determine.
- 5 Where a completion notice is not withdrawn and no appeal under paragraph 4 above is brought against the notice or any appeal under that paragraph is dismissed or withdrawn, the day stated in the notice shall be the completion day in relation to the building.

*Position pending appeal*

- 6 (1) Where an appeal under paragraph 4 above is brought against a completion notice, then in relation to any day on which the appeal is pending section 45 above shall apply by virtue of section 46A(4) above as if the day stated in the notice had been determined under this Schedule as the completion day in relation to the building to which the notice relates.
- (2) The Secretary of State may make regulations providing for the making of financial adjustments where sub-paragraph (1) applies but the day stated in the completion notice is not actually determined as the completion day in relation to the building to which the notice relates.
- (3) Regulations under sub-paragraph (2) above may include—
- (a) provision requiring payments to be made,
  - (b) provision requiring payments to be made together with payments of interest, and
  - (c) provision as to the recovery (by deduction or otherwise) of sums due.
- (4) For the purpose of deciding, for the purposes of this paragraph, whether an appeal is pending on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.



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#### *Duty to inform valuation officer*

- 7 (1) A charging authority shall supply to the valuation officer a copy of any completion notice served by it.
- (2) If a charging authority withdraws a completion notice, it shall inform the valuation officer of that fact.
- (3) A charging authority shall supply the valuation officer with details of any agreement to which it is a party and by virtue of which a completion day is determined under this Schedule in relation to a building.

#### *Supplementary*

- 8 Without prejudice to any other mode of service, a completion notice may be served on a person—
  - (a) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
  - (b) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter or by the recorded delivery service addressed to the secretary or clerk of the company or body at that office; or
  - (c) where the name or address of that person cannot be ascertained after reasonable inquiry, by addressing it to him by the description of “owner” of the building (describing it) to which the notice relates and by affixing it to some conspicuous part of the building.
- 9 (1) This paragraph applies in the case of a building to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed.
- (2) It shall be assumed for the purposes of this Schedule that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work.
- 10 (1) Section 46A(6) applies for the purposes of this Schedule.
- (2) In this Schedule—
  - “completion notice” has the meaning given by paragraph 1(6) above;
  - “owner”, in relation to a building, means the person entitled to possession of the building;
  - references to the valuation officer, in relation to a charging authority, are references to the valuation officer for the authority.”
- 37 (1) Schedule 5 (exemptions) shall be amended as follows.
- (2) In paragraph 7 (agricultural buildings) in each of sub-paragraphs (1)(b) <sup>F4</sup>..., for “(together with the body)” there shall be substituted “ or are together with the body ”.

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(3) In paragraph 9 (exemption for fish farms) the following shall be inserted after sub-paragraph (4)—

- “(4A) But an activity does not constitute fish farming if the fish or shell fish are or include fish or shellfish which—
- (a) are purely ornamental, or
  - (b) are bred, reared or cultivated for exhibition.”

(4) After paragraph 18 there shall be inserted—

*“ Road crossings over watercourses etc.*

18A(1) A hereditament which is occupied (as mentioned in section 65 of this Act) is exempt to the extent that it consists of, or of any of the appurtenances of, a fixed road crossing over an estuary, river or other watercourse.

(2) For the purposes of this paragraph, a fixed road crossing means a bridge, viaduct, tunnel or other construction providing a means for road vehicles or pedestrians or both to cross the estuary, river or other watercourse concerned.

(3) For the purposes of sub-paragraph (2) above—

- (a) a bridge may be a fixed road crossing notwithstanding that it is designed so that part of it can be swung, raised or otherwise moved in order to facilitate passage across, above or below it; but
- (b) the expression “bridge” does not include a floating bridge, that is to say, a ferry operating between fixed chains.

(4) The reference in sub-paragraph (1) above to the appurtenances of a fixed road crossing is a reference to—

- (a) the carriageway and any footway thereof;
- (b) any building, other than office buildings, used in connection with the crossing; and
- (c) any machinery, apparatus or works used in connection with the crossing or with any of the items mentioned in paragraphs (a) and (b) above.”

#### **Textual Amendments**

**F4** Words in Sch. 5 para. 37(2) repealed (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 8 Pt. 1](#); S.I. 2003/2938, [art. 3\(i\)\(iii\)](#) (with [art. 8, Sch.](#)); S.I. 2003/3034, [art. 2, Sch. 1 Pt. I](#)

38 (1) Schedule 6 shall be amended as follows.

(2) In paragraph 1 the words “, and parts of them,” shall be omitted.

(3) In paragraph 2, in sub-paragraph (1) after “non-domestic hereditament” there shall be inserted “ none of which consists of domestic property and none of which is exempt from local non-domestic rating ”.

(4) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (1)

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- “(1A) The rateable value of a composite hereditament none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would reasonably be attributable to the non-domestic use of property.
- (1B) The rateable value of a non-domestic hereditament which is partially exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would, as regards the part of the hereditament which is not exempt from local non-domestic rating, be reasonably attributable to the non-domestic use of property.”
- (5) In paragraph 2, in sub-paragraph (6) for the words from “day the alteration” to the end there shall be substituted “ material day. ”
- (6) In paragraph 2, the following sub-paragraph shall be inserted after sub-paragraph (6) —
- “(6A) For the purposes of sub-paragraph (6) above—
- (a) where the determination is occasioned by a proposal for an alteration disputing the accuracy of a previous alteration to the list, the material day is the day by reference to which the matters mentioned in sub-paragraph (7) below fell to be assessed when determining the rateable value with a view to making the disputed alteration;
  - (b) where the determination is occasioned by any proposal for an alteration other than one disputing the accuracy of a previous alteration to the list, the material day is the day the proposal is made;
  - (c) where the determination is occasioned otherwise than by a proposal for an alteration, the material day is the day the alteration is entered in the list.”
- (7) In paragraph 2, in sub-paragraph (7) after paragraph (c) there shall be inserted—
- “(cc) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,”.
- (8) In paragraph 2, in sub-paragraph (8) for “description” there shall be substituted “ class ”.
- (9) In paragraph 2, in sub-paragraph (9) after “(1)” there shall be inserted “ , (1A) or (1B) ”.
- (10) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (10)—
- “(11) For the purposes of sub-paragraph (8) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (12) Without prejudice to the generality of sub-paragraph (11) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
  - (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.

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(13) In this paragraph references to the non-domestic use of property are references to use otherwise than in such a manner as to constitute the property domestic property.”

(11) The following paragraphs shall be inserted after paragraph 2—

“2A (1) This paragraph applies to any hereditament the whole or any part of which consists in buildings which are—

- (a) used for the breeding and rearing of horses or ponies or for either of those purposes; and
- (b) are occupied together with any agricultural land or agricultural building.

(2) The rateable value of any hereditament to which this paragraph applies shall be taken to be the amount determined under paragraph 2 above less whichever is the smaller of the following amounts—

- (a) such amount as the Secretary of State may by order specify for the purposes of this paragraph; and
- (b) the amount which but for this paragraph would be determined under paragraph 2 above in respect of so much of the hereditament as consists of buildings so used and occupied.

(3) In this paragraph—

“agricultural land” means any land of more than two hectares which is agricultural land within the meaning of paragraph 2 of Schedule 5 above and is not land used exclusively for the pasturing of horses or ponies; and

“agricultural building” shall be construed in accordance with paragraphs 3 to 7 of that Schedule.

2B (1) This paragraph applies where—

- (a) the rateable value of a hereditament consisting of an area of a caravan site is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force),
- (b) the area is treated as one hereditament by virtue of regulations under section 64(3)(b),
- (c) immediately before the day the alteration is entered in the list or (if the alteration is made in pursuance of a proposal) the day the proposal is made, the list includes a hereditament consisting of an area of the caravan site treated as one hereditament by virtue of such regulations, and
- (d) the area mentioned in paragraph (b) above and the area mentioned in paragraph (c) above are wholly or partly the same.

(2) In relation to a caravan pitch which is included both in the area mentioned in sub-paragraph (1)(b) above and in the area mentioned in sub-paragraph (1)(c) above, sub-paragraph (3) below rather than paragraph 2(6) above shall apply as respects the matters mentioned in sub-paragraph (4) below.

(3) The matters mentioned in sub-paragraph (4) below shall be taken to be as they were assumed to be for the purposes of determining the rateable value of the hereditament mentioned in sub-paragraph (1)(c) above when that rateable value was last determined.

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- (4) The matters are—
- (a) the nature of the caravan on the pitch, and
  - (b) the physical state of that caravan.
- (5) For the purposes of this paragraph—
- “caravan” has the same meaning as it has for the purposes of Part I of the Caravan Sites and Control of Development Act 1960, and
- “caravan site” means any land in respect of which a site licence is required under Part I of that Act, or would be so required if paragraph 4 and paragraph 11 of Schedule 1 to the Act (exemption of certain land occupied and supervised by organisations concerned with recreational activities and of land occupied by local authorities) were omitted.”
- (12) In paragraph 3(1)—
- (a) for “description” there shall be substituted “ class ”, and
  - (b) for “paragraph 2” there shall be substituted “ paragraphs 2 to 2B ”.
- (13) In paragraph 3(2) for “paragraph 2” there shall be substituted “ paragraphs 2 to 2B ”.
- (14) In paragraph 3, the following sub-paragraphs shall be inserted after sub-paragraph (2)
- 
- “(3) For the purposes of sub-paragraph (1) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (4) Without prejudice to the generality of sub-paragraph (3) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
  - (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.”

(15) Paragraph 4 shall be omitted.

39 (1) Schedule 7 (multipliers) shall be amended as follows.

    - (2) In paragraph 7(1) for the words from “Regulations” to “that” there shall be substituted “ In relation to a relevant financial year the Secretary of State may make regulations providing that ”.
    - (3) In paragraph 8(3) for “section 57” there shall be substituted “ paragraph 7 ”.
    - (4) In paragraph 9(4) (certain orders ineffective unless in force before 1 January) for “January” there shall be substituted “ March ”.
    - (5) In paragraph 10(1) (special authority’s power to set multiplier in substitution) the words “because of a failure to fulfil paragraph 9(2) or (3) above” shall be omitted.

40 The following Schedule shall be inserted after Schedule 7—

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“SCHEDULE  
 7A **E+W**”

NON-DOMESTIC RATING: 1990-95

*Definitions*

- 1 (1) The transitional period is the period consisting of the financial years beginning in 1990, 1991, 1992, 1993 and 1994.
- (2) A transitional day is a day falling in the transitional period.
- 2 (1) As regards a transitional day a hereditament is a defined hereditament if the first and second conditions are fulfilled; but this is subject to sub-paragraphs (4) and (5) below.
- (2) The first condition is that the hereditament is shown for 31 March 1990 in a valuation list maintained under Part V of the 1967 Act.
- (3) The second condition is that the hereditament is shown in a local non-domestic rating list, and a rateable value is shown in the list for the hereditament, for—
  - (a) 1 April 1990,
  - (b) the transitional day (if different from 1 April 1990), and
  - (c) each day (if any) falling after 1 April 1990 and before the transitional day.
- (4) If the hereditament is not a right falling within section 64(2) above, the hereditament is not a defined hereditament as regards the transitional day unless the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990 is £500 or more.
- (5) If the hereditament is one falling within sub-paragraph (8) below, the hereditament is not a defined hereditament as regards the transitional day unless a person who is a qualifying person in relation to the hereditament as regards that day is also a person to whom sub-paragraph (6) or (7) below applies.
- (6) This sub-paragraph applies to a person if—
  - (a) he occupied all or part of the hereditament on 31 March 1990, and
  - (b) he has been a qualifying person in relation to the hereditament as regards each day (if any) falling after 31 March 1990 and before the transitional day.
- (7) This sub-paragraph applies to a person if—
  - (a) he was the owner of the whole of the hereditament on 31 March 1990,
  - (b) none of the hereditament was occupied on 31 March 1990,
  - (c) he occupied all or part of the hereditament on at least one day in the period beginning with 1 April 1988 and ending with 30 March 1990, and
  - (d) he has been a qualifying person in relation to the hereditament as regards each day which falls before the transitional day and falls

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after the last (or only) day in the period mentioned in paragraph (c) above on which he occupied all or part of the hereditament.

- (8) A hereditament falls within this sub-paragraph if, assuming it to be a defined hereditament as regards 1 April 1990, paragraph 9 below would apply to the hereditament for that day by virtue of paragraph 7 below.
- (9) For the purposes of this paragraph a person is a qualifying person in relation to a hereditament as regards a day if—
- he occupies all or part of the hereditament on that day, or
  - where none of the hereditament is occupied on that day, he is the owner of the whole of the hereditament on that day.
- 3 (1) The notional chargeable amount for a hereditament for each day in a relevant year shall be found by applying the formula—

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

- (2) A is the rateable value shown for the hereditament for 1 April 1990 in the local non-domestic rating list.
- (3) Subject to sub-paragraph (4) below, B is the non-domestic rating multiplier for the relevant year concerned.
- (4) Where the hereditament is situated in the area of a special authority, B is the authority's non-domestic rating multiplier for the relevant year concerned.
- (5) C is the number of days in the relevant year concerned.
- (6) Relevant years are financial years falling in the transitional period.
- 4 (1) The base liability for a hereditament for each day in the financial year beginning in 1990 shall be found by applying the formula—

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

- (2) A is the rateable value of the hereditament, as determined under paragraph 6 below.
- (3) B is the general rate poundage effective for 31 March 1990 for the rating area (within the meaning of the 1967 Act) in which the hereditament is situated.
- (4) C is the number of days in the financial year beginning in 1989.
- (5) The base liability for a hereditament for each day in a relevant year (the year concerned) other than the financial year beginning in 1990 shall be found by applying the formula—

$$BL \times AF$$

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- (6) Relevant years are financial years falling in the transitional period.
  - (7) BL is the base liability for the hereditament for each day in the financial year immediately preceding the year concerned.
  - (8) AF is the appropriate fraction for the hereditament for each day in the financial year immediately preceding the year concerned.
- 5 (1) Sub-paragraph (2) below applies in a case where the notional chargeable amount for a hereditament for each day in a relevant year exceeds the base liability for the hereditament for each day in the year.
- (2) The appropriate fraction for the hereditament for each day in the year shall be found by applying the formula—

$$\frac{X}{100} \times \frac{\text{RPI}(1)}{\text{RPI}(2)}$$

- (3) X is 120 if—
- (a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £15,000 or more, or
  - (b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £10,000 or more.
- (4) X is 115 if—
- (a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £15,000, or
  - (b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £10,000.
- (5) RPI(1) is the retail prices index for September of the financial year preceding the relevant year concerned.
- (6) RPI(2) is the retail prices index for September of the financial year which precedes that preceding the relevant year concerned.
- (7) Sub-paragraph (8) below applies in a case where the notional chargeable amount for a hereditament for each day in a relevant year does not exceed the base liability for the hereditament for each day in the year.
- (8) The appropriate fraction for the hereditament for each day in the year shall be such as is—
- (a) specified for the case by order made by the Secretary of State, or
  - (b) found in accordance with rules prescribed for the case by order so made.
- (9) In making an order under this paragraph the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all charging authorities by way of non-domestic



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rates as regards a relevant year is the same as it would in his opinion be likely to be apart from this Schedule.

(10) Relevant years are financial years falling in the transitional period.

6 (1) This paragraph has effect to determine A in relation to a hereditament for the purposes of paragraph 4 above.

(2) In a case where a rateable value is shown for the hereditament for 15 February 1989 in the old valuation list, A is the value so shown; but this is subject to sub-paragraph (3) below.

(3) If—

- (a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and
- (b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,

A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.

(4) For the purposes of sub-paragraph (3) above a relevant proposal is a proposal—

- (a) made by a valuation officer at any time, or
- (b) made by a person other than a valuation officer, and received by a valuation officer, before 15 February 1989.

(5) In a case where a rateable value is not shown for the hereditament for 15 February 1989 in the old valuation list, A is the rateable value shown in that list for the hereditament for the first relevant day for which a rateable value is shown; but this is subject to sub-paragraph (6) below.

(6) If—

- (a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and
- (b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,

A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.

(7) For the purposes of sub-paragraph (6) above a relevant proposal is a proposal made by a valuation officer at any time.

(8) In the case of a hereditament—

- (a) occupied by or on behalf of the Crown for public purposes in the period beginning with 15 February 1989 and ending with 31 March 1990, and
- (b) in respect of which a contribution is made by the Crown in aid of rates for that period,

references in sub-paragraphs (2) to (6) above to rateable value are to value representing rateable value (which is required to be shown by section 37 of the 1967 Act).

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- (9) For the purposes of this paragraph a relevant day is a day falling after 15 February 1989 and before 1 April 1990.
- (10) For the purposes of this paragraph the old valuation list is the valuation list, maintained under Part V of the 1967 Act, in which the hereditament is shown for 31 March 1990.

#### *Chargeable amounts*

- 7 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—
- (a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,
  - (b) as regards the day concerned the hereditament is a defined hereditament,
  - (c) NCA exceeds BL,
  - (d) NCA exceeds (BL x AF), and
  - (e) in a case where the day concerned is not 1 April 1990, paragraph 9 below applies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.
- (2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
- (a) if the appropriate amount is positive, adding it to (BL x AF), or
  - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).
- (3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

- (4) For the purposes of this paragraph—
- (a) NCA is the notional chargeable amount for the hereditament for the day concerned,
  - (b) BL is the base liability for the hereditament for the day concerned,
  - (c) AF is the appropriate fraction for the hereditament for the day concerned,
  - (d) D is the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990,
  - (e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,
  - (f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and
  - (g) G is the number of days in the financial year in which the day concerned falls.

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- 8 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—
- (a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,
  - (b) as regards the day concerned the hereditament is a defined hereditament,
  - (c) NCA is less than BL,
  - (d) NCA is less than (BL x AF), and
  - (e) in a case where the day concerned is not 1 April 1990, paragraph 9 below applies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.
- (2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
- (a) if the appropriate amount is positive, adding it to (BL x AF), or
  - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).
- (3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

- (4) For the purposes of this paragraph—
- (a) NCA is the notional chargeable amount for the hereditament for the day concerned,
  - (b) BL is the base liability for the hereditament for the day concerned,
  - (c) AF is the appropriate fraction for the hereditament for the day concerned,
  - (d) D is the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990,
  - (e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,
  - (f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and
  - (g) G is the number of days in the financial year in which the day concerned falls.
- 9 (1) In a case where this paragraph applies, for the purpose of ascertaining the chargeable amount for the day concerned under section 43 above that section shall have effect subject to the following amendments.
- (2) The following subsections shall be substituted for subsections (4) and (5)—
- “(4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated by finding the amount represented by (BL x AF).

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- (5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated by—
- (a) finding the amount represented by (BL x AF), and
  - (b) dividing that amount by 5.”
- (3) The following subsections shall be inserted after subsection (6)—
- “(6A) In a case where the hereditament is situated in the area of a special authority, a reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
- (a) if the appropriate amount is positive, adding it to (BL x AF), or
  - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).
- (6B) For the purposes of subsection (6A) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

”

- (4) For the purposes of section 43 above as amended by this paragraph BL, AF, D, E, F and G shall be construed in accordance with paragraphs 7 and 8 above.

#### *Regulations*

- 10 (1) The Secretary of State may make regulations containing rules about the determination under section 45 or 54 above of a chargeable amount for a transitional day.
- (2) The rules may make provision which he considers to be equivalent to that made by or under paragraphs 1 to 9 above, subject to any modifications he thinks fit.
- 11 (1) The Secretary of State may make regulations containing rules supplementing or modifying or excluding, for any case he considers appropriate and to such extent as he considers appropriate, any relevant provision.
- (2) For the purpose of the determination under section 43, 45 or 54 above of a chargeable amount for a transitional day, the Secretary of State may make regulations applying any relevant provision (subject to any modifications he thinks fit) to any case—
- (a) where he considers it appropriate to do so, and
  - (b) where the relevant provision would not (whether by virtue of regulations under sub-paragraph (1) above or otherwise) apply apart from the regulations under this sub-paragraph.
- (3) A relevant provision is a provision made by or under paragraphs 1 to 9 above or by regulations under paragraph 10 above.

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- 12 Without prejudice to the generality of section 143(1) and (2) above and paragraphs 10 and 11 above, regulations under those paragraphs may include provision—
- (a) imposing duties and conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) in relation to the ascertainment of rateable values;
  - (b) as to appeals relating to things done or not done by such officers.”
- 41 In Schedule 8 (non-domestic rating: pooling) in Part I, in paragraph 2 (non-domestic rating accounts: credits and debits) in sub-paragraph (1)(b) for “regulations made under section 59(2)” there shall be substituted “ section 59 ”.
- 42 (1) In Schedule 8 (non-domestic rating: pooling) Part II (non-domestic rating contributions) shall be amended as follows.
- (2) In paragraph 5, at the end of sub-paragraph (1) there shall be added “ and has effect subject to any provision made by virtue of paragraph 6(2A) below ”.
  - (3) In paragraph 6, after sub-paragraph (2) there shall be inserted the following sub-paragraphs—
    - “(2A) Regulations under paragraph 4 above may incorporate in the rules provision for adjustments to be made in the calculation of the amount of an authority’s non-domestic rating contribution under paragraph 5(2) or 5(6) above, being adjustments to take account of relevant changes affecting the amount of the authority’s non-domestic rating contribution for an earlier year.
    - (2B) For the purposes of sub-paragraph (2A) above, a change is a relevant change if it results from a decision, determination or other matter which (whether by reason of the time at which it was taken, made or occurred or otherwise) was not taken into account by the authority in the calculation under paragraph 5(6) above of the amount of its non-domestic rating contribution for the earlier year in question.”

F<sup>5</sup>43 .....

**Textual Amendments**

**F5** Sch. 5 para. 43 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s.117(2), Sch.14 (with s. 118(1)(2)(4)), S.I. 1992/2454, art. 3

- 44 (1) In Schedule 9 (administration) paragraph 2 (collection and recovery) shall be amended as follows.
- (2) The following paragraphs shall be substituted for sub-paragraph (2)(g)—
    - “(g) that a notice must be in a prescribed form,
    - (ga) that a notice must contain prescribed matters,
    - (gb) that a notice must not contain other prescribed matters,
    - (gc) that where a notice is invalid because it does not comply with regulations under paragraph (g) or (ga) above, and the circumstances are such as may be prescribed, a requirement contained in the notice by virtue of regulations under paragraph (e) or (f) above shall nevertheless have effect as if the notice were valid,

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- (gd) that where a notice is invalid because it does not comply with regulations under paragraph (g) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to issue to the ratepayer a document in the form which the notice would have taken had it complied with regulations under paragraph (g) above,
  - (ge) that where a notice is invalid because it does not comply with regulations under paragraph (ga) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to inform the ratepayer of such of the matters prescribed under paragraph (ga) above as were not contained in the notice.”.
- (3) In sub-paragraph (2)(h) the words from “and” to the end shall be omitted.
- (4) The following sub-paragraph shall be inserted after sub-paragraph (2)—
- “(2A) Regulations under this Schedule may include provision that where—
- (a) an amount paid by the ratepayer in excess of his liability falls to be repaid or credited, and
  - (b) the circumstances are such as may be prescribed,
- an additional amount by way of interest shall be paid or credited.”
- 45 In Schedule 9 the following paragraph shall be inserted after paragraph 4—
- “4A (1) Regulations under this Schedule may include provision that a charging authority and a person liable to pay it an amount under section 43 or 45 above may enter into an agreement that—
- (a) any interest of his in the hereditament as regards which the liability arises shall be charged to secure payment of the amount, and
  - (b) in consideration of the charge the authority will take no steps for a period specified in the agreement to recover any payment in respect of the amount.
- (2) The regulations may include—
- (a) provision that the agreement may also extend to any further amount the person may become liable to pay to the authority under section 43 or 45 above as regards the hereditament;
  - (b) provision that the agreement may provide for the payment of interest on sums outstanding and for interest payable to be secured by the charge;
  - (c) provision restricting the period which may be specified as mentioned in sub-paragraph (1)(b) above.”
- 46 (1) Paragraph 5 of Schedule 9 (power to require information to be supplied to a valuation officer) shall be amended as follows.
- (2) In sub-paragraph (1) for the words from “requiring” to the end there shall be substituted “requesting him to supply to the officer information—
- (a) which is specified in the notice, and
  - (b) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part.”

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- (3) After sub-paragraph (1) there shall be inserted—
- “(1A) A notice under this paragraph must state that the officer believes the information requested will assist him in carrying out functions conferred or imposed on him by or under this Part.”
- (4) In sub-paragraph (2)—
- (a) for “required” (in the first place where the word occurs) there shall be substituted “ requested ”, and
- (b) for “required” (in the second place where the word occurs) there shall be substituted “ specified ”.
- 47 (1) Paragraph 6 of Schedule 9 (authority’s duty to supply information to valuation officer) shall be amended as follows.
- (2) In sub-paragraph (1) for “relevant” there shall be substituted “ charging ”, and in consequence sub-paragraph (2) shall be omitted.
- (3) After sub-paragraph (1) there shall be inserted—
- “(1A) The Secretary of State may make regulations containing provision that, at such times and in such manner as may be prescribed, a charging authority shall supply to the valuation officer for the authority information of such description as may be prescribed.”
- 48 The following paragraphs shall be substituted for paragraph 8 of Schedule 9 (inspection)—
- “8 (1) A person may require a valuation officer to give him access to such information as will enable him to establish what is the state of a list, or has been its state at any time since it came into force, if—
- (a) the officer is maintaining the list, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.
- (2) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—
- (a) the authority has deposited the copy under section 41(6B) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.
- (3) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—
- (a) the Secretary of State has deposited the copy under section 52(6B) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.
- (4) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

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- (a) the authority has deposited the copy under section 41(6) above, and
  - (b) the list itself is not yet in force.
- (5) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—
- (a) the Secretary of State has deposited the copy under section 52(6) above, and
  - (b) the list itself is not yet in force.
- (6) A requirement under any of the preceding provisions of this paragraph must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or other form, as the person or authority of whom the requirement is made thinks fit.
- (7) Where access is given under this paragraph to information in documentary form the person to whom access is given may—
- (a) make copies of (or of extracts from) the document;
  - (b) require a person having custody of the document to supply to him a photographic copy of (or of extracts from) the document.
- (8) Where access is given under this paragraph to information in a form which is not documentary the person to whom access is given may—
- (a) make transcripts of (or of extracts from) the information;
  - (b) require a person having control of access to the information to supply to him a copy in documentary form of (or of extracts from) the information.
- (9) If a reasonable charge is required for a facility under sub-paragraph (7) or (8) above, the sub-paragraph concerned shall not apply unless the person seeking to avail himself of the facility pays the charge.
- (10) If without reasonable excuse a person having custody of a document containing, or having control of access to, information access to which is sought under this paragraph—
- (a) intentionally obstructs a person in exercising a right under sub-paragraph (1), (2), (3), (4), (5), (7)(a) or (8)(a) above, or
  - (b) refuses to comply with a requirement under sub-paragraph (7)(b) or (8)(b) above,
- he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- 9 (1) A person may, at a reasonable time and without making payment, inspect any proposal made or notice of appeal given under regulations made under section 55 above, if made or given as regards a list which is in force when inspection is sought or has been in force at any time in the preceding 5 years.
- (2) A person may—
- (a) make copies of (or of extracts from) a document mentioned in sub-paragraph (1) above, or



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- (b) require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document.
- (3) If a reasonable charge is required for a facility under sub-paragraph (2) above, the sub-paragraph shall not apply unless the person seeking to avail himself of the facility pays the charge.
- (4) If without reasonable excuse a person having custody of a document mentioned in sub-paragraph (1) above—
  - (a) intentionally obstructs a person in exercising a right under sub-paragraph (1) or (2)(a) above, or
  - (b) refuses to supply a copy to a person entitled to it under sub-paragraph (2)(b) above,he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.”

**Status:**

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