

1989 No. 2260

RATING AND VALUATION

**The Non-Domestic Rating (Collection and Enforcement)
(Central Lists) Regulations 1989**

<i>Made</i> - - - -	<i>30th November 1989</i>
<i>Laid before Parliament</i>	<i>7th December 1989</i>
<i>Coming into force</i>	<i>31st December 1989</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 63, 143(1) and (2) and 146(6) of, and paragraphs 1, 2 and 4 of Schedule 9 to, the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 and shall come into force on 31st December 1989.

Interpretation

2.—(1) In these Regulations—

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

“the amount payable” for a chargeable financial year or part of a chargeable financial year in relation to a ratepayer means the amount the ratepayer is liable to pay to the Secretary of State in respect of the year or part under section 54 of the Act;

“demand notice” means the notice required to be served by regulation 4(1);

“ratepayer” in relation to a chargeable financial year means a person liable to pay an amount under section 54 of the Act in respect of the year; and

“relevant year” in relation to a notice means the chargeable financial year to which the notice relates.

(2) Where references are made in these Regulations to the day on which a notice is issued, they shall be taken to be references—

(a) if the notice is served in the manner described in regulation 3 by being left at, or sent by post to, a person's last known place of abode or a body's registered or principal office (as the case may be), to the day on which it is so left or posted, or

(b) in any other case, to the day on which it is served.

Service of notices

3.—(1) Any notice required or authorised by these Regulations to be given to or served on a person by the Secretary of State may be given or served—

(a) in the case of an individual, by delivering it to him, or by leaving it at or by sending it by post to him at his last known place of abode,

(b) in the case of a body corporate, by addressing it to the secretary of the body and by delivering it to him, or by leaving it at or by sending it by post to him at the registered or principal office of the body, or

(c) by leaving it at, or by sending it by post to the person at, an address given by the person as an address at which service of the notice will be accepted.

(2) For the purposes of paragraph (1)(b) the principal office of a company registered outside the United Kingdom shall be its principal office within the United Kingdom.

The requirement for demand notices

4.—(1) For each chargeable financial year the Secretary of State shall, in accordance with regulations 5 to 7, serve a notice in writing on every person who is a ratepayer in relation to the year.

(2) Different demand notices shall be served for different chargeable financial years.

Time of service of demand notices

5.—(1) Subject to paragraph (2), a demand notice shall be served on or as soon as practicable after—

(a) except in a case falling within sub-paragraph (b), 1st April in the relevant year, or

(b) if the ratepayer's name is not shown in a central list for that day, the first day after that day for which it is so shown.

(2) A demand notice may, if the non-domestic multiplier for the relevant year has been determined under Schedule 7 to the Act, be served before the beginning of the relevant year on a person whose name, for the day on which it is issued, is shown in a central list (or would be so shown if a list sent under section 52(5) of the Act were in force); and if it is so served, references in this Part to a ratepayer shall, in relation to that notice and so far as the context permits, be construed as references to that person.

Payments under demand notices

6.—(1) If a demand notice is issued before or during the relevant year and the ratepayer's name is shown in a central list for the day on which it is issued (or would be so shown if a list sent under section 52(5) of the Act were in force), the notice shall require payment of an amount equal to the Secretary of State's estimate of the amount payable for the year, made as respects periods after the issue of the notice on the assumption that the ratepayer's name will be shown in a central list for every day in the relevant year after that day.

(2) If a demand notice is issued during the relevant year but paragraph (1) does not apply, the notice shall require payment of an amount equal to the amount payable by the ratepayer for the period in the year up to the day for which his name is last shown in a central list.

(3) If, after a notice is served to which paragraph (2) applies, the ratepayer's name is shown again in a central list for a day in the relevant year, a further notice shall be served on him requiring payments with respect to the amount payable for the period in the relevant year beginning with the day for which his name is so shown again in the list; and regulations 5 to 8 (and, so far as applicable, the Schedule) shall apply to the further notice with respect to that period as if it were a demand notice and his name had not been shown in a central list for a day before that period begins.

(4) If a demand notice is issued after the end of the relevant year, it shall require payment of the amount payable for the year.

Payments under demand notices: further provision

7.—(1) Unless an agreement under paragraph (3) in relation to the relevant year has been reached between the ratepayer and the Secretary of State before the demand notice is issued, a notice to which regulation 6(1) applies shall require the estimate of the amount payable to be paid by instalments in accordance with Part I of the Schedule; and where such instalments are required Part II of the Schedule applies for their cessation or adjustment in the circumstances described in that Part.

(2) If an agreement under paragraph (3) in relation to the relevant year has been reached between the Secretary of State and the ratepayer before the demand notice is issued, a notice to which regulation 6(1) applies shall require the estimate of the amount payable to be paid in accordance with that agreement.

(3) The Secretary of State and a ratepayer may agree that the estimate of the amount payable which is required to be paid under a notice to which regulation 6(1) applies should be paid in such manner as is provided by the agreement, rather than in accordance with the Schedule.

(4) Notwithstanding anything in the foregoing provisions of this regulation, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in regulation 6(1) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with the Schedule before it was entered into.

(5) A notice to which regulation 6(2) or (4) applies shall require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(6) No payment in respect of the amount payable by a ratepayer for any chargeable financial year (whether interim, final or sole) need be made unless a notice served under these Regulations requires it.

Failure to pay instalments

8.—(1) Where—

- (a) a demand notice has been served by the Secretary of State on a ratepayer,
- (b) instalments are payable under the notice in accordance with the Schedule, and
- (c) any such instalment is not paid in accordance with the Schedule,

the Secretary of State shall (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid.

(2) If, after the service of a further notice under paragraph (1), the ratepayer—

- (a) fails to pay, before the expiry of the period of 7 days beginning with the day of service of the further notice, any instalments which fall due before the expiry of that period under the demand notice concerned, or
- (b) fails to pay any instalment which falls due after the expiry of that period under the demand notice concerned on or before the day on which it falls due,

the unpaid balance of the estimated amount shall become payable by him at the expiry of a further period of 7 days beginning with the day of the failure.

(3) If the amount payable for the relevant year proves to be greater than the estimated amount, an additional sum equal to the difference between the two shall, on the service by the Secretary of State on the ratepayer of a notice stating the amount payable, be due from the person to the Secretary of State on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If the amount payable for the relevant year proves to be less than the estimated amount the Secretary of State shall notify the ratepayer in writing of the amount payable; and any overpayment in respect of any liability of the ratepayer under these Regulations—

- (a) shall be repaid if the ratepayer so requires, or
- (b) in any other case shall (as the Secretary of State determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

(5) If any factor or assumption by reference to which the estimated amount was calculated is shown to be false before the amount payable is capable of final determination for the purposes of paragraphs (3) and (4), the Secretary of State may, and if so required by the ratepayer shall, make a calculation of the appropriate amount with a view to adjusting the ratepayer's liability in respect of the estimated amount and (as appropriate) to—

- (a) requiring an interim payment from the ratepayer if the appropriate amount is greater than the estimated amount, or
- (b) making an interim repayment to the ratepayer if the appropriate amount is less than the amount of the estimated amount paid.

(6) The appropriate amount for the purposes of paragraph (5) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year and the ratepayer on the day that the notice under paragraph (7) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under paragraph (5) according to the circumstances.

(7) On calculating the appropriate amount the Secretary of State shall notify the ratepayer in writing of it; and a payment required under paragraph (5)(a) shall be due from the ratepayer to the Secretary of State on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(8) In this regulation—

“the appropriate amount” has the meaning given in paragraph (6); and

“the estimated amount” means the amount last estimated under regulation 6(1) for the purposes of the demand notice mentioned in paragraph (1)(a) or any subsequent notice given under paragraph 7(2) of the Schedule prior to the failure mentioned in paragraph (2) above, save that if in any case an interim adjustment has been required or made under paragraph (5), it means in relation to the next payment, repayment or interim adjustment in that case under this regulation (if any), the appropriate amount by reference to which the previous interim adjustment was so made.

Demand notices: final adjustment

9.—(1) This regulation applies where—

- (a) a notice has been issued by the Secretary of State under these Regulations requiring a payment or payments to be made by a ratepayer in respect of the amount payable for a chargeable financial year or part of a chargeable financial year,
- (b) the payment or payments required to be paid are found to be in excess of or less than the amount payable for the year or the part, and
- (c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of these Regulations, of the Act or of any agreement entered into under regulation 7(3).

(2) The Secretary of State shall as soon as practicable after the expiry of the year or the part of a year serve a further notice on the ratepayer stating the amount payable for the year or part and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in paragraph (1)(a), the amount of the difference for which such other provision as is mentioned in paragraph (1)(c) is not made shall be due from the ratepayer to the Secretary of State on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment in respect of any liability of the ratepayer under these Regulations, the amount overpaid for which such other provision as is mentioned in paragraph (1)(c) is not made—

- (a) shall be repaid if the ratepayer so requires, or
- (b) in any other case shall (as the Secretary of State determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

Recovery in court of competent jurisdiction

10.—(1) Any sum which has become payable under these Regulations (whether to the Secretary of State or by way of repayment), and which has not been paid, shall be recoverable in a court of competent jurisdiction.

(2) Any matter which could be the subject of an appeal under regulations under section 55 of the Act may not be raised in proceedings under paragraph (1).

(3) The contents of a central list or an extract from such a list may be proved in proceedings under paragraph (1) by production of a copy of the list or relevant part of the list purporting to be certified by or on behalf of the Secretary of State to be a true copy.

Outstanding liabilities on death

11. Regulation 24 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(a) shall have effect as if—

- (a) references to Part II of those Regulations included a reference to these Regulations;
- (b) references to relevant costs included references to costs in respect of which an order of a court has been made in proceedings under regulation 10(1) of these Regulations; and
- (c) in a case where proceedings to enforce a liability under regulation 24 of those Regulations relate to an amount calculated by reference to section 54 of the Act, for regulation 24(7) of those Regulations there were substituted—

“(7) Regulation 10(2) and (3) of the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 applies to enforce a liability arising under this regulation as it applies to proceedings under regulation 10(1) of those Regulations.”.

30th November 1989

Chris Patten
Secretary of State for the Environment

30th November 1989

Peter Walker
Secretary of State for Wales

SCHEDULE

Regulation 7(1)

NON-DOMESTIC RATE INSTALMENT SCHEME

PART I

PAYMENT OF THE AGGREGATE AMOUNT

1.—(1) This paragraph applies where the demand notice is issued on or before 31st December in the relevant year, but has effect subject to paragraph 3.

(2) The aggregate amount is to be payable in monthly instalments, the number of such instalments being 10 or, if less, the number of whole months remaining in the relevant year after the issue of the notice less one.

(3) The months in which the instalments are payable must be uninterrupted, but subject to that (and to paragraph 4) are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified.

(4) If the aggregate amount divided by the number of instalments gives an amount which is a multiple of a pound, the instalments shall be of that amount.

(5) If the aggregate amount so divided would not give such an amount, all but the first instalment shall be of an amount equal to A and the first instalment shall be of an amount equal to B, where—

$A = \frac{C}{D}$, rounded up or down (as the case may be) to the nearest multiple of a pound,

$B = C - ((D - 1) \times A)$,

C is equal to the aggregate amount, and

D is equal to the number of instalments to be paid.

2. Where the demand notice is issued between 1st January and 31st March in the relevant year, the aggregate amount is to be payable in a single instalment on such day as is specified in the notice.

3.—(1) If amounts calculated in accordance with paragraph 1 would produce an amount for an instalment of less than £50, the demand notice may require the aggregate amount to be paid—

- (a) where the aggregate amount is less than £100, in a single instalment payable on such day as is specified in the notice, or

(a) S.I. 1989/1058.

(b) where the aggregate amount is equal to or greater than £100, by a number of monthly instalments equal to the greatest whole number by which £50 can be multiplied to give a product which is less than or equal to the aggregate amount.

(2) The months in which the instalments under sub-paragraph (1)(b) are payable must be uninterrupted, but subject to that are to be such of the months in which, but for this paragraph, the instalments would have been payable under paragraph 1 as are specified in the demand notice; and the instalments are to be payable on such day in each month as is so specified.

(3) Paragraph 1(4) and (5) applies to instalments under sub-paragraph (1)(b) as it applies to instalments under paragraph 1(2).

4. The demand notice shall be issued at least 14 days before the day on which the first instalment is due under it.

5. In this Part "the aggregate amount" means the amount of the estimate referred to in regulation 6(1).

PART II

CESSATION AND ADJUSTMENT OF INSTALMENTS

6.—(1) This paragraph applies where the demand notice has been served on a ratepayer by the Secretary of State, and for a day in the relevant year after its issue ("the relevant day") the ratepayer's name is no longer shown in a central list.

(2) Subject to sub-paragraphs (5) and (6), no payments of instalments falling due after the relevant day are payable under the notice.

(3) The Secretary of State shall on the relevant day or as soon as practicable after that day serve a notice on the ratepayer stating the amount payable for the period in the relevant year up to the relevant day.

(4) If the amount stated under sub-paragraph (3) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference shall go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment in respect of any liability of the ratepayer under these Regulations—

(a) shall be repaid if the ratepayer so requires, or

(b) in any other case shall (as the Secretary of State determines) either be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

(5) If the amount stated under sub-paragraph (3) is greater than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference between the two shall be due from the ratepayer to the Secretary of State on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under that sub-paragraph as is specified in it.

(6) If this paragraph applies in relation to a demand notice, and after the relevant day the ratepayer's name is shown again in a central list for a day in the relevant year, a further notice shall be served on him requiring payments with respect to the amount payable for the period in the relevant year beginning with the day for which his name is so shown again in the list; and regulations 5 to 8 (and, as far as applicable, this Schedule) shall apply to the further notice with respect to that period as if it were a demand notice and his name had not been shown in a central list for a day before that period begins.

7.—(1) The paragraph applies where the demand notice has been served on a ratepayer by the Secretary of State, any factor or assumption by reference to which the estimate made under regulation 6(1) for the purpose of the notice was calculated is shown to be false in respect of a day ("the relevant day"), and the event mentioned in paragraph 6(1) above has not occurred as regards the ratepayer.

(2) The Secretary of State shall on or as soon as practicable after the relevant day—

(a) serve a notice on the ratepayer which is to state the amount of the revised estimate mentioned in sub-paragraph (3), and

(b) adjust the instalments (if any) payable on or after the adjustment day ("the remaining instalments") so that they accord with the amounts mentioned in sub-paragraph (4).

(3) The amount is the revised estimate of the Secretary of State of the amount payable for the relevant year made on the assumption mentioned in regulation 6(1) and as if the notice mentioned in that provision were the notice referred to in sub-paragraph (2) above.

(4) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with paragraph 1(4) and (5) as if references in those provisions to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

(5) If the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess shall be due from the ratepayer to the Secretary of State in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2) as is specified in it; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under these Regulations—

(a) shall be repaid if the ratepayer so requires, or

(b) in any other case shall (as the Secretary of State determines) either be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

(6) Where a notice has been given under sub-paragraph (2), in the operation of this paragraph as respects any further notice that may fall to be given under it, references in this paragraph to the demand notice and to amounts in respect of instalments payable under it shall be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under this paragraph; and in calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of sub-paragraphs (4) and (5) in consequence of the calculation of the revised estimate mentioned in sub-paragraph (3), there shall not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under sub-paragraph (5) on the occasion of the giving of a previous notice under sub-paragraph (2).

(7) In this paragraph “ the adjustment day ” means the day 14 days after the day the notice served under sub-paragraph (2) is issued.

8. More than one adjustment of amounts paid or payable under a demand notice may be made under this Part as the circumstances require.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under Part III of the Local Government Finance Act 1988, make provision for the collection and enforcement of non-domestic rates arising in relation to those whose names appear on a central rating list by virtue of a designation under regulations under section 53 of that Act, and related matters.

Regulations 2 to 9 are principally concerned with the billing of such persons. They require, amongst other matters, the Secretary of State to serve demand notices each year on central ratepayers (regulations 3 to 6) identifying the payments to be made, and provide for certain of such payments to be made by instalments during the year (regulation 7 and the Schedule). Where a person fails to pay an instalment in accordance with the Schedule, in certain cases the unpaid balance of the Secretary of State's estimate of the amount payable for the year will become payable immediately (regulation 8). Regulation 9 provides for the final adjustment of amounts payable under notices given under the Regulations.

Regulation 10 makes provision for the enforcement of sums due under regulations 2 to 9. Amounts payable to the Secretary of State, or repayable by him, are recoverable in a court of competent jurisdiction. Regulation 10 further provides that matters which may be raised by way of appeal to a valuation and community charge tribunal may not be raised in proceedings for recovery before the court; and provides for the proof of the contents of the central rating list in such proceedings.

Regulation 11 makes appropriate modifications to regulation 24 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 so as to enable the enforcement of outstanding central rate liabilities in the administration of a ratepayer's estate on the death of the ratepayer.

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