

1989 No. 2261

RATING AND VALUATION

**The Non-Domestic Rating (Unoccupied Property)
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>28th 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 45(1)(d), (9) and (10), 143(2) and 146(6) of, and paragraphs 1 and 8(2)(a) of Schedule 11 to, the Local Government Finance Act 1988(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Unoccupied Property) Regulations 1989 and shall come into force on 28th December 1989.

(2) In these Regulations, “the Act” means the Local Government Finance Act 1988.

Property liable for unoccupied property rates

2.—(1) The class of non-domestic hereditaments prescribed for the purposes of section 45(1) of the Act consists of all relevant non-domestic hereditaments to which none of the conditions in paragraph (2) applies.

(2) The conditions are that —

- (a) the whole hereditament has, subject to paragraph (3), been unoccupied for a continuous period not exceeding three months;
- (b) its owner is prohibited by law from occupying it or allowing it to be occupied;
- (c) it is kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the hereditament or to acquiring it;
- (d) it is the subject of a building preservation notice as defined by section 58 of the Town and Country Planning Act 1971(b) or is included in a list compiled under section 54 of that Act;
- (e) it is included in the Schedule of monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 (c);
- (f) it is a qualifying industrial hereditament;
- (g) its rateable value is less than £1,000;

(a) 1988 c. 41; section 45 is amended by paragraph 23 of Schedule 5 to the Local Government and Housing Act 1989 (c.42). (b) 1971 c. 78. (c) 1979 c. 46.

- (h) the owner is entitled to possession only in his capacity as the personal representative of a deceased person;
- (i) there subsists in respect of the owner's estate a bankruptcy order within the meaning of Parts VIII to XI of the Insolvency Act 1986 (a);
- (j) the owner is entitled to possession of the hereditament in his capacity as trustee under a deed of arrangement to which the Deeds of Arrangement Act 1914 (b) applies;
- (k) the owner is a company which is subject to a winding-up order made under the Insolvency Act 1986 or which is being wound up voluntarily under that Act;
- (l) the owner is entitled to possession of the hereditament in his capacity as liquidator by virtue of an order made under section 112 or section 145 of the Insolvency Act 1986.

(3) Where a hereditament which has been unoccupied becomes occupied on any day and becomes unoccupied again on the expiration of a period of less than six weeks beginning with that day, then for the purposes of ascertaining whether the hereditament has been continuously unoccupied for the period mentioned in paragraph (2)(a) it shall be treated as having been unoccupied on that day and throughout the period.

(4) For the purpose of paragraph (2)(a), a hereditament which has not previously been occupied shall be treated as becoming unoccupied –

- (a) on the day determined under paragraph 8 of Schedule 1 to the General Rate Act 1967(c), or
- (b) on the day determined under Schedule 4A to the Act(d), or
- (c) where neither (a) nor (b) applies, on the day for which the hereditament is first shown in a local rating list,

whichever day first occurs.

(5)(a) In paragraph (1). "relevant non-domestic hereditament" means any non-domestic hereditament consisting of, or of part of, any building, together with any land ordinarily used or intended for use for the purposes of the building or part, and

(b) in paragraph (2)(f) –

"qualifying industrial hereditament" means any hereditament other than a retail hereditament in relation to which all buildings comprised in the hereditament are –

- (i) constructed or adapted for use in the course of a trade or business; and
- (ii) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto:-
 - (a) the manufacture, repair or adaptation of goods or materials, or the subjection of goods or materials to any process;
 - (b) storage (including the storage or handling of goods in the course of their distribution);
 - (c) the working or processing of minerals;
 - (d) the generation of electricity; and

"retail hereditament" means any hereditament where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose of the retail provision of –

- (i) goods, or
- (ii) services, other than storage for distribution services, on or from the hereditament.

(a) 1986 c.45. (b) 1914 c.47. (c) 1967 c. 9. (d) Inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989.

Appeals against completion notices: transitional provision

3. Any appeal under paragraph 4 of Schedule 4A to the Act against a completion notice served under that Schedule shall be dismissed unless it is initiated before whichever is the later of –

- (a) the expiry of 28 days beginning with the day on which the notice is served;
- (b) 1st April 1990.

30th November 1989

Chris Patten
Secretary of State for the Environment

30th November 1989

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Part III of the Local Government Finance Act 1988 rates are payable on unoccupied hereditaments if they fall within a class prescribed by regulations made by the Secretary of State and the other conditions set out in section 45 apply.

These regulations prescribe a class consisting of all buildings or parts of buildings except those which comply with any condition set out in regulation 2(2).

The hereditament exempt from unoccupied property rates by virtue of the conditions include those unoccupied for less than three months; those where occupation is prohibited by law; those kept vacant by reason of certain action taken by the Crown or a local or public authority; listed buildings and those subject to preservation notices; scheduled monuments; industrial hereditaments; and those which the owner holds only as a personal representative, liquidator or trustee under a deed of arrangement, or where the owner is the subject of insolvency proceedings.

The exemptions replicate the exemptions conferred by Schedule 1 to the General Rate Act 1967, the Rating (Exemption of Unoccupied Property) Regulations 1967 (S.I. 1967/954) and the Rating (Exemption of Unoccupied Industrial and Storage Hereditaments) Regulations 1985 (S.I. 1985/258). In addition, hereditaments whose rateable value is less than £1,000 are also to be exempt.

Regulation 3 provides that any appeal to a valuation and community charge tribunal against a completion notice (served by the charging authority in order to determine the day on which a new or newly altered building is deemed to become unoccupied) is to be dismissed unless initiated within 28 days of service of the notice, or 1st April 1990, whichever is the later.