

1990 No. 145

RATING AND VALUATION

**The Non-Domestic Rating (Collection and Enforcement)
(Miscellaneous Provisions) Regulations 1990**

Made - - - - *31st January 1990*

Laid before Parliament *5th February 1990*

Coming into force *26th February 1990*

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 50, 63, 143(1) and (2) and 146(6) of, and paragraphs 1 to 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:

**PART I
GENERAL**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 and shall come into force on 26th February 1990.

(2) In these Regulations –

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

“the principal Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (b).

**PART II
JOINT OWNERS AND OCCUPIERS**

Interpretation of Part II

2.—(1) Unless the context otherwise requires, expressions used in this Part which are also used in Parts II or III of the principal Regulations have the same meaning as they have in those Parts.

(2) Regulation 2 of the principal Regulations applies to the service of a notice under this Part as it applies to the service of a notice under those Regulations.

Joint owners and occupiers

3.—(1) This regulation applies in any case where (apart from this regulation) there would at a particular time be more than one occupier of a hereditament which is shown in a local non-domestic rating list, or of part of such a hereditament, or more than one owner of the whole of an unoccupied hereditament so shown.

(2) Where this regulation applies –

- (a) as regards any time in a chargeable financial year when there is only one such owner or occupier, section 43 or 45 of the Act (as the case may be) shall apply (but subject to any amendments to those sections having effect by or under Schedule 7A(a) to the Act in any case and to any amount or rules determined or prescribed under section 47(1)(a) or 58(3)(a) of the Act), and
- (b) as regards any time in a chargeable financial year when there is more than one such owner or occupier, the owners or occupiers shall be jointly and severally liable to pay the amount that would have been payable by way of non-domestic rate with respect to that time if there were only one such owner or occupier (as the case may be).

(3) Part II of the principal Regulations (billing) shall have effect to accord with paragraph (2); and in particular a notice which falls to be given under that Part which relates to a time when paragraph (2)(b) applies (or pursuant to regulation 6(1) of the principal Regulations is assumed to apply) may be given –

- (a) severally to each or any of the owners or occupiers concerned from whom payment is demanded (in which case references in that Part to “the ratepayer” shall as regards such a notice be construed as references to the owner or occupier to whom it is given, and the notice may also relate to a time in the relevant year when paragraph (2)(a) applies in relation to him and the hereditament concerned), or
- (b) where the owners or occupiers concerned are jointly and severally liable as partners or trustees, jointly to the partnership or trust (in which case only a single notice need be given in respect of them and references to “the ratepayer” in that Part shall be construed as regards the notice as references to the partners or trustees jointly).

(4) A notice given to a partnership or trust pursuant to paragraph (3)(b) may be served –

- (a) in the case of a partnership, in the manner described in section 233(3)(b) of the Local Government Act 1972(b) (“the 1972 Act”), or
- (b) in the case of a trust, by being served on one of the trustees;

and where such a notice as is mentioned in regulation 2(2) of the principal Regulations falls to be served on a partnership, a person having control or management of the partnership business or a trust under this paragraph, the proper address of the partnership, person or trust (as the case may be) shall include (as well as the address mentioned in section 233(4) of the 1972 Act) any place of business which is a hereditament to which the notice relates.

(5) Where a notice is given pursuant to paragraph (3)(a) to more than one person in respect of the same amount, the charging authority shall notify that fact to each person to whom notice is so given.

(6) Where a notice given pursuant to paragraph (3)(a) to a ratepayer relates to a time in the relevant year when paragraph (2)(a) applies and a time when paragraph (2)(b) applies (or are assumed to apply), any payment made by the ratepayer under the notice shall be treated as being made towards satisfaction of the amount for which he is solely liable unless and until his liability in respect of that amount is discharged.

(a) Schedule 7A was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 40.
(b) 1972 c.70.

(7) For the purposes of any time to which paragraph (2)(b) applies, the requirement in section 43(6), 45(6) and 47(2)(a) of the Act that the ratepayer should be a charity or trustees for a charity is met if one or more of the owners or occupiers jointly and severally liable is a charity or (as the case may be) some or all of them are trustees for a charity.

(8) Where, under Part II of the principal Regulations as applied by this regulation, any sum paid in respect of an amount calculated by reference to paragraph (2)(b) falls to be repaid, it may be repaid to such of the owners or occupiers concerned as the charging authority considers appropriate.

(9) Paragraphs (2)(b) and (8) are without prejudice to any right or duty in law or equity (whether under the terms of any trusts on which the hereditament concerned is held or otherwise) of an owner or occupier who has made a payment, or receives a repayment, in respect of a liability under paragraph (2)(b) to recover all or part of the payment from, or to account for all or part of the repayment to, the other owners or occupiers or any beneficiaries interested in the hereditament; but insofar as in any particular case no such right or duty exists (and the owner or occupier is not himself in consequence of any such provision in law or equity obliged to bear the burden of the payment or entitled to receive the benefit of the payment or contribution), such payments shall be due between the owners or occupiers (as the case may be) as will secure that in respect of a liability falling within paragraph (2)(b) the burden or benefit of the payment or repayment accrues to them in equal shares.

Joint owners and occupiers: enforcement

4.—(1) Part III of the principal Regulations (enforcement) shall have effect, with the following modifications, for the recovery of a sum for which persons are liable under Part II of those Regulations as applied by regulation 3 above.

(2) Subject to paragraph (3) a reminder notice shall be served in accordance with regulation 11(1) and (2) of the principal Regulations on every person against whom an application for a liability order is to be made.

(3) A reminder notice need not be served on a person who has been served under regulation 8(1) of the principal Regulations (whether jointly or severally) with a notice in respect of the amount concerned where there has been such a failure by him as is mentioned in regulation 8(2)(a) of those Regulations in relation to the notice.

(4) Regulation 3(3) to (6) above applies to a reminder notice as it applies to a notice under Part II of the principal Regulations.

(5) A liability order may be applied for and made against one or more of the owners or occupiers concerned in respect of an amount to which regulation 3(2)(b) applies (or pursuant to regulation 6(1) of the principal Regulations is assumed to apply), whether they have been served with a notice in respect of the amount jointly or severally.

(6) Where a liability order has been made against more than one person in respect of an amount, subject to paragraph (10) distress may be made against one or more of them.

(7) Where distress has been made against more than one person in respect of an amount, a warrant of commitment may be applied for at any time against one of them or different warrants may be applied for against more than one of them.

(8) Where distress has been made against one person only, a warrant of commitment may be applied for against that person.

(9) Where a liability order has been made against more than one person in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 16(3) of the principal Regulations, no steps, or no further steps, may be taken against any of them by way of distress, bankruptcy or winding up in relation to the amount mentioned in regulation 16(4) of those Regulations.

(10) Where a liability order has been made against more than one person in respect of an amount –

- (a) subject to regulation 5(6), steps by way of distress, commitment, bankruptcy or winding up may not be taken against a person in respect of the amount while steps by way of another of those methods are being taken against him in respect of it, and
- (b) subject to paragraph (11) and regulation 5(4), steps by way of distress may not be taken against a person in respect of an amount whilst steps by way of distress are being taken against one of the others in respect of it.

(11) Where a liability order has been made against more than one person in respect of an amount and in making distress against one of them goods jointly owned by him and another of them are found, paragraph (10)(b) does not preclude distress being levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 16 of the principal Regulations (commitment), charges arising under Schedule 3 to those Regulations from such a distress shall be treated as charges relating to the person against whose goods the levy was intended to be made when the jointly owned goods were found, and not as charges relating to the other.

(12) Where a liability order has been made against more than one person in respect of an amount, paragraph 2(2) of Schedule 3 to the principal Regulations shall have effect so that if a charge has arisen against one of them under head B of the Table to paragraph 1 of that Schedule as regards a levy in respect of it, no further charge may be aggregated for the purposes of regulation 14(2) of those Regulations under heads A or B in consequence of any subsequent levy or attempted levy against any of them in respect of the amount; and if a charge has arisen under head A against one of them, it shall be treated as a charge under that head with respect to the others as well as that one for the purposes of the calculation of any subsequent charge under heads A or B against any of them.

(13) Where a liability order is made against one person in respect of an amount, and also against another person or persons (whether at the same time as the order against the first mentioned person or subsequently and whether in respect of all or part of that amount), the order made as respects all but the relevant person shall not include under regulation 12(6)(b) or (7) of the principal Regulations any additional sum in respect of the costs of obtaining the order against the other or others, but they (with the relevant person) shall be treated as jointly and severally liable for the amount included in the order against the relevant person in respect of costs, and the order against them shall (as regards regulations 12(6)(b) or (7) of those Regulations) be made in respect of the sum outstanding in relation to it; and for this purpose the relevant person is the person against whom the liability order was first made in respect of the amount, or if there are more than one such, such one of them as the court considers appropriate.

(14) Paragraph (13) is not to be construed as permitting a charging authority to apply under regulation 12(2) of the principal Regulations for a liability order against a person in respect of costs alone after an order has been made for those costs against another person.

Enforcement in relation to partnerships

5.—(1) Where persons are liable to pay an amount to which regulation 3(2)(b) applies (or is assumed to apply) as partners in consequence of the service of a notice pursuant to regulation 3(3)(b), a liability order in relation to it may be applied for and made against them in their firm name; and such an order shall be as effective as if orders were made against each partner concerned in respect of his liability for that amount.

(2) If a liability order is made against partners in their firm name in respect of an amount and no order has earlier been made against another person in respect of it, references in regulation 4(13) to the relevant person shall be construed as references to the partnership.

(3) Without prejudice to regulation 13(2) of the principal Regulations, a summons issued pursuant to an application for a liability order against partners in their firm name may be served by leaving it at, or by sending it by post to the partnership at, the principal office of the partnership.

(4) Where a liability order has been made against partners in their firm name in respect of an amount, regulation 4(10)(b) does not preclude distress being levied against partnership property with respect to that amount; and in any subsequent proceedings under regulation 16 of the principal Regulations (commitment), the partners shall be treated as jointly and severally liable for charges arising under Schedule 3 to those Regulations from such a distress.

(5) Where a liability order is made against partners in their firm name, regulation 18(2) of the principal Regulations shall have effect as if the reference to a company included a reference to the partnership and the reference to section 221(5)(b) of the Insolvency Act 1986 (a) were –

- (a) in a case where article 7 of the Insolvent Partnerships Order 1986(b) applies, a reference to section 221(5)(c) as applied by that article, or
- (b) in a case where article 8 of that Order applies, a reference to section 221(5) as substituted by paragraph (1)(c) of that article.

(6) Where a liability order is made against partners in their firm name, regulation 4(10)(a) does not preclude insolvency proceedings being brought against the partnership as well as against members of the partnership, and those proceedings being dealt with in accordance with the Insolvent Partnerships Order 1986.

PART III

AMENDMENTS TO PRINCIPAL REGULATIONS

Local non-domestic rating: billing

6.—(1) Part II of the principal Regulations (billing) is amended in accordance with this regulation.

(2) In regulation 3(1), for the words from “(whether calculated” to “of the Act)” there are substituted the words “, whether calculated by reference to section 43(4) to (6) or 45(4) to (6) of the Act (as those provisions are amended or substituted in any case by or under Schedule 7A to the Act) or by reference to an amount or rules determined or prescribed under section 47(1)(a) or 58(3)(a) of the Act”.

(3) In paragraph 6(1) of Schedule 1, after the words “in respect of a day” there are inserted the words “in the relevant year”.

(4) In paragraph 7(2)(a) and (5) of Schedule 1, for the words “chargeable person” wherever they appear there are substituted the words “ratepayer”.

Local non-domestic rating: enforcement

7.—(1) Part III of the principal Regulations (enforcement) is amended in accordance with this regulation.

(2) In paragraph (6) of regulation 12, for the words “The order shall” there are substituted the words “An order made pursuant to paragraph (5) shall”; and after that paragraph there is inserted –

“(7) Where the sum payable is paid after a liability order has been applied for under paragraph (2) but before it is made, the court shall nonetheless (if so requested by the charging authority) make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application.”.

(3) In regulation 13(1), after the words “such amount” (in both places where they occur) there are inserted the words “(or aggregate amount)”, and after the words “regulation 12(6)” there are inserted the words “and (7)”.

(a) 1986 c.45. (b) S.I. 1986/2142.

(4) In regulation 18(2), the words "of that Act" are omitted, and at the end there are inserted the words "or, as the case may be, 221(5)(b) (winding up of unregistered companies) of that Act".

(5) In column (2) of head A of the Table to paragraph 1 of Schedule 3, for the words "not greater than" there are substituted the words "equal to".

Outstanding liabilities on death

8.—(1) In regulation 24(2)(a) of the principal Regulations, for the words "the relevant costs" there are substituted the words "relevant costs".

(2) In regulation 24(5)(a) of those Regulations, after the words "regulation 12(6)(b)" there are inserted the words "or (7)".

31st January 1990

Chris Patten
Secretary of State for the Environment

31st January 1990

Peter Walker
Secretary of State for Wales

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, deal with miscellaneous matters concerning the collection and enforcement of non-domestic rates.

Part II (regulations 2 to 5) makes provision for joint owners and occupiers of a rateable hereditament. It provides that they should be jointly and severally liable for the amount that would be payable if there were only one such owner or occupier at any time; and applies the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 ("the principal Regulations") to the collection and enforcement of such amounts, with appropriate modifications.

Part III makes miscellaneous amendments to the principal Regulations, made necessary in part by amendments to the Local Government Finance Act 1988 made by the Local Government and Housing Act 1989. Amongst other matters, they permit a liability order to be made in respect of costs alone where the amount outstanding in respect of rates is paid after a liability order has been applied for, and make provision for insolvency proceedings to be brought in the case of unregistered companies.

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