

**EXPLANATORY MEMORANDUM TO THE  
NON-DOMESTIC RATING (CHARGEABLE AMOUNTS) (ENGLAND)  
REGULATIONS 2004**

**2004 No.**

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty. This memorandum includes information for the Joint Committee on Statutory Instruments.

2. **Description**

These Regulations make provision in relation to the transitional arrangements for phasing in rate liabilities over 4 years following the revaluation of the non-domestic rating lists effective on 1 April 2005.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

These regulations are subject to the affirmative procedure (see section 143(4) of the Local Government Finance Act 1988 as amended by paragraph 24 of schedule 7 to the Local Government Act 2003).

4. **Legislative Background**

These Regulations are being made under section 143(4) of the Local Government Finance Act 1988 in exercise of the powers in sections 57A, 140(4) and 143(1) and (2). Section 57A was inserted by, and section 143(4) was amended by section 65 and paragraph 24 of schedule 7 to the Local Government Act 2003.

5. **Extent**

This instrument applies to England.

6. **European Convention on Human Rights**

The Minister of State for local and regional government and fire has made the following statement regarding Human Rights:

In my view the provisions of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004 are compatible with the Convention rights.

## 7. Policy background

- 7.1 Properties subject to non-domestic rates are re-valued every 5 years and this can result in large increases or reductions in rate bills for some ratepayers. Transitional arrangements to phase in the increases were put in place following the 1990, 1995 and 2000 revaluations. The cost was partly off-set by phasing in the reductions to other ratepayers. Section 65 of the Local Government Act 2003 inserts a new enabling power (section 57A) into the Local Government Finance Act 1988. This new power provides that a self - financing transitional scheme must be introduced for the 2005 re-valuation.
- 7.2 The Government commissioned research into the options available which incorporated consultation with the relevant stakeholders. A consultation document on the preferred options was published in August 2004.
- 7.3 These regulations bring this scheme into effect. The 2005 transition scheme will phase in increases and reductions in rate bills. The scheme, in contrast to previous schemes, will be self-financing within each year (i.e. the cost of limiting increases in bills matches the revenue from limiting reductions) and will run for four years rather than five. This will ensure that everyone is paying their normal bill by 2009/10.
- 7.4 These regulations introduce a scheme for 2005 with many broad similarities to the scheme in place for the 2000 re-valuation but simplified and clarified where possible. However, the Government will also introduce a small business rate relief scheme from 1 April 2005 under which qualifying small businesses will receive up to 50% rate relief. Non-qualifying ratepayers will pay a little extra to fund the small business relief. Therefore these regulations ensure that the small business relief is applied after transition but the associated supplement is outside the transitional scheme. This ensures that:
- (a) qualifying ratepayers subject to the transitional arrangements also receive their small business rate relief, and
  - (b) non-qualifying ratepayers subject to the transitional arrangements also pay a little extra on top of their transitional rate bill to pay for the small business rate relief.
- 7.5 These regulations apply to properties on both local rating lists and also the central rating list held by the Secretary of State. The central list holds large network style properties such as gas, water, electricity, railways and telecommunications. Throughout the regulations, the transitional scheme has been applied in most cases in the same way to those ratepayers in the central list.
- 7.6 The general principle applied is that ratepayers should receive the benefit of transition, or contribute towards transition even when their property changes, but that the transitional calculation remains based on the rateable value of the original property as at 1<sup>st</sup> April 2005. The value of any later new additions to the property are excluded from transition and rates are payable in full on the amount of the increase in rateable value. However alterations which reduce the rateable value of the property below the rateable value at the 1<sup>st</sup> April 2005, reduce the amount of transition in proportion to the reduction in rateable value.

- 7.7 Part 1 of the regulations sets out the definitions of technical terms, limits the scheme to four years, defines the hereditaments (properties) which are subject to transition and makes provision for special authorities.
- 7.8 Under regulation 3, hereditaments can be subject to transition where they have a value in the list on 31<sup>st</sup> March 2005, 1<sup>st</sup> April 2005 and continuously thereafter. Hereditaments with a value of zero on 31<sup>st</sup> March 2005 are excluded from transition because any percentage limit applied to zero would produce a zero chargeable amount in subsequent years.
- 7.9 Under regulation 4, in the case of a special authority (City of London), where the multiplier set by the authority is different from the national multiplier, transition is calculated as if the national multiplier applied, then an adjustment is made for any premium or discount on the multiplier. In effect, any supplement or discount in the City is outside the transitional scheme.
- 7.10 Part 2 of the regulations deals with calculation of the chargeable amounts, rateable value changes and the effect of part-occupied relief.
- 7.11 Under regulation 5 the notional chargeable amount is defined as the rateable value at 1<sup>st</sup> April 2005 multiplied by the small business multiplier for the relevant year. This is the rate bill (ignoring reliefs, the contribution to small business relief and subsequent rateable value changes) that the ratepayer would have paid for the relevant year had there been no transitional scheme (notional bill). The small business multiplier (D) is used here because the difference between this and the standard multiplier is the supplement paid by ratepayers who do not qualify for small business relief. This supplement is outside transition to ensure that all businesses contribute towards small business relief in proportion to their rateable values.
- 7.12 The base liability is the ratepayer's starting point under the transitional arrangements and is their rate bill (before reliefs but after transition) for 2004/05 based on the circumstances existing on 31<sup>st</sup> March 2005. For a property in transition at 31<sup>st</sup> March 2005, regulation 6 defines the base liability for 2005/06 as the rate bill (ignoring reliefs but including the effects of the previous transitional scheme) that the ratepayer would have paid for 31<sup>st</sup> March 2005 (i.e. the day before the revaluation took effect) multiplied by 365 days, excluding the situation where this would be zero. For a property not in transition, regulation 7 defines the base liability as the rateable value at 31<sup>st</sup> March 2005, times the multiplier for 2004/05. Regulation 8 defines a subsequent year's base liability as the previous base liability times the previous year's appropriate fraction (i.e. the full transitional bill for the previous year).
- 7.13 The appropriate fraction is the annual limit on increases or reductions. Regulation 9 defines the appropriate fraction as the transitional limit multiplied by an inflation factor and divided by 100. This gives a percentage increase or reduction, uplifted by inflation. Small hereditaments with a rateable value below £15,000 (£21,500 in London) are treated more generously.
- 7.14 Regulation 10 determines if a hereditament is subject to transition. If the ratepayer is moving to a higher bill and their notional chargeable amount (the target bill) is

more than their base liability multiplied by the appropriate fraction (the transitional bill), then the transitional bill applies. If the ratepayer is moving to a lower bill and their notional chargeable amount (the target bill) is less than their base liability multiplied by the appropriate fraction (the transitional bill), then the transitional bill also applies.

- 7.15 Regulation 11 determines the chargeable amount for a property that has been identified as being in transition under regulation 10. The transitional bill is the base liability times the appropriate fraction. To the transitional bill is added the supplement (U) paid by ratepayers who do not qualify for small business relief (for those that do qualify, U is deducted at regulation 11(6)). All other reliefs, such as charity and unoccupied property reliefs, are then applied to the transitional bill.
- 7.16 Regulation 12 deals with changes in rateable value after 1<sup>st</sup> April 2005 for hereditaments in transition. This follows the general principle that the transitional calculation is based on the rateable value of the original property as at 1<sup>st</sup> April 2005. Where the value exceeds the value on 1<sup>st</sup> April 2005, rates will be payable in full on the amount of the increase in rateable value, in addition to the transitional liability based on the rateable value at 1<sup>st</sup> April 2005. Where the value is below the value on 1<sup>st</sup> April 2005, the amount of transition and the rate bill are reduced in proportion to the reduction in rateable value.
- 7.17 Regulation 13 enables the Valuation Officer to issue a certificated value for 1<sup>st</sup> April 2005 where the hereditament is altered on that day, to enable a transitional liability to be calculated for 1<sup>st</sup> April 2005 on the unaltered property. This can then be modified to take account of the alteration on the same basis as alterations effective from later than 1<sup>st</sup> April 2005..
- 7.18 Regulation 14 allows the chargeable amount for a property in transition to be apportioned where relief is granted under section 44A of the Local Government Finance Act 1988 (part-occupied relief).
- 7.19 Part 3 deals with miscellaneous matters concerning when a Valuation Officer is required to issue certificates of rateable value in various circumstances, appeals against the certificates and ends the power to issue certificates for the 1995 list. Certificates are required in various circumstances, including where backdating of amendments is limited, to enable transition to work on a basis which is fair to everyone.
- 7.20 Regulation 15 deals with the situation where the rateable value on 1<sup>st</sup> April 2005 is incorrect and the Valuation Officer is prevented from backdating the alteration of the list to 1<sup>st</sup> April 2005. In this case the Valuation Officer will amend the list from a later date but under regulation 12, the ratepayer will pay in full on that increase (or receive the full benefit of the reduction). Such ratepayers may, therefore, be worse off (or better off) than if the increase (or reduction) had taken effect from 1 April 2005 as the change in value would then have been captured in the transitional scheme. Under regulation 15, the Valuation Officer is required to certify the correct value at 1<sup>st</sup> April 2005, and the bill will then be calculated as if the value had been there on 1<sup>st</sup> April 2005. The Government is minded to allow

full backdating of alterations to reduce rateable values and therefore, this regulation would only apply in the case of increases in value.

- 7.21 Regulation 16 deals with the situation where the rateable value on 31<sup>st</sup> March 2005 is incorrect and the Valuation Officer is prevented from backdating the alteration to the 2000 list. As such, the base liability in the transitional scheme would be wrong. The Valuation Officer is required to certify the correct value at 31<sup>st</sup> March 2005. In the case of a reduction, this will reduce the liability from 1<sup>st</sup> April 2005. In the case of an increase to the base liability, the transitional bill will only increase from, in effect, when the error was discovered.
- 7.22 Regulation 17 deals with the situation where a hereditament is split or merged with another before 1<sup>st</sup> April 2005 and the Valuation Officer is able to amend the 2005 list for 1<sup>st</sup> April 2005 but not the 2000 list for 31<sup>st</sup> March 2005. To ensure a “like for like” comparison, the Valuation Officer shall issue a certificate of the rateable value on 31<sup>st</sup> March 2005. The transitional liability will be calculated as if the property had actually been split or merged on 31<sup>st</sup> March 2005, giving a correct transitional base liability.
- 7.23 Regulation 18 requires the Valuation Officer to issue certificates as soon as practicable after the circumstances come to his attention. Where it is inaccurate, the Valuation Officer can issue a substituted certificate.
- 7.24 Regulation 19 allows for appeals against certificated values and where unresolved, these will be referred to the Valuation Tribunal.
- 7.25 Regulation 20 revokes the powers of a Valuation Officer to issue certificates of rateable value in the 1995 valuation list.
- 7.26 Schedule 1 deals with an altered hereditament which was shown in the local list at any time between 1<sup>st</sup> April 2000 and the 31<sup>st</sup> March 2005 and was deleted from the list following structural alterations, subsequently reappearing on or after 1<sup>st</sup> April 2005. This allows the Valuation Officer to issue a certificate of the rateable value for 31<sup>st</sup> March 2005, which enables transition to be calculated. This schedule only applies where the charge in the 2005 list would be lower than the charge in the 2004/5 would have been. It ensures that large ratepayers cannot escape the limits on reductions in bills by merely refurbishing their property during a period which includes the revaluation.
- 7.27 Schedule 2 deals with splits and mergers of hereditaments. Paragraphs 2 to 5 deal separately with splits and mergers on and after 1<sup>st</sup> April 2005. In all cases the total liability of the old hereditament(s) (R) is multiplied by the rateable value of the new hereditament (J) and divided by the total of the rateable value(s) of the old hereditament(s) (S). This keeps the transitional liability of the new property in proportion to the liability of the properties from which it was formed.
- 7.28 Paragraph 6 of schedule 2 deals with increases or reductions in rateable value subsequent to a split or merger but within the same financial year. Where the value increases following the split or merger, rates will be payable in full on the excess. Where the value falls following the split or merger, the rate bill is reduced in proportion to the reduction in rateable value. These are the same principles that apply to other hereditaments under regulation 12.

7.29 Paragraphs 7 to 10 of schedule 2 cover the rules for notional chargeable amount, base liability and appropriate fraction for a property created by a split or merger and put it on the same basis as any other hereditament in transition, but based on the rateable value at the day it was created rather than 1<sup>st</sup> April 2005.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum.

## **9. Contact**

Nic Suggit at the Office of the Deputy Prime Minister Tel: 020 7944 2524 or e-mail [Nic.Suggit@odpm.gsi.gov.uk](mailto:Nic.Suggit@odpm.gsi.gov.uk) can answer any queries regarding the instrument..