

**2009 No. 204**

**RATING AND VALUATION, ENGLAND**

**The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) Regulations 2009**

<i>Made</i>	- - - -	<i>5th February 2009</i>
<i>Laid before Parliament</i>		<i>10th February 2009</i>
<i>Coming into force</i>	- -	<i>9th March 2009</i>

The Secretary of State, in exercise of the powers conferred by section 143(1) and (2) of, and paragraph 1 of Schedule 9 to, the Local Government Finance Act 1988(a), makes the following Regulations:

**Citation, commencement and application**

1. These Regulations, which apply to England only, may be cited as the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) Regulations 2009 and shall come into force on 9th March 2009.

**Amendment of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989**

2.—(1) The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(b) are amended as follows.

(2) After regulation 7 (payments under demand notices: further provision) insert—

**“Backdated liability: special provision in relation to 2005 rating lists**

7A. Notwithstanding the requirements of a demand notice issued in accordance with regulation 7, a ratepayer and a billing authority may reach an agreement in accordance with Schedule 1A.”.

(3) After Schedule 1, insert Schedule 1A set out in the Schedule to these Regulations.

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(a) 1988 c. 41. Paragraph 1 of Schedule 9 has been prospectively amended by Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). These powers are now vested in the Welsh Ministers so far as they exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Local Government Finance Act 1988. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(b) S.I. 1989/1058, to which there are amendments not relevant to these Regulations.

## SCHEDULE

Regulation 2(3)

### New Schedule 1A

#### “SCHEDULE 1A

Regulation 7A

### Backdated liability: special provision in relation to 2005 rating lists

#### **Application and interpretation**

1.—(1) Subject to sub-paragraph (3), this Schedule applies where—

- (a) a ratepayer has been served by a billing authority with one or more demand notices which, taken together, require the payment of rates under section 43 of the Act in respect of 33 months or more, whether consecutive or not, as a consequence of one or more relevant list alterations; and
- (b) the demand notice or notices were served in the financial year beginning on 1st April 2007, 1st April 2008 or 1st April 2009.

(2) A relevant list alteration is an alteration to a rating list compiled on 1st April 2005—

- (a) which results in a hereditament being shown on that list for the first time;
- (b) which has effect from a day that is at least 33 months prior to the day the alteration is made; and
- (c) which is made on or before 31st March 2010.

(3) This Schedule does not apply where a relevant list alteration is made as a consequence of—

- (a) a proposal by an interested person made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005(a);
- (b) property previously rated as a single hereditament becoming liable to be rated in parts if the ratepayer was liable to pay an amount in respect of that single hereditament;
- (c) property previously rated in parts becoming liable to be rated as a single hereditament if the ratepayer was liable to pay an amount in respect of one or more of those parts; or
- (d) a hereditament or any part of a hereditament becoming part of a different hereditament if the ratepayer was liable to pay an amount in respect of that original hereditament.

(4) In this Schedule, “backdated liability” means a ratepayer’s liability under one or more demand notices of the description mentioned in sub-paragraph (1) as regards the period beginning on the day from which a relevant list alteration has effect and ending on the day on which the list alteration is made, to the extent that the liability has not been discharged.

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(a) S.I. 2005/659, to which there are amendments not relevant to these Regulations.

### **Agreement to reschedule backdated liability**

2.—(1) A billing authority and a ratepayer may agree that backdated liability should be discharged in the manner provided by the agreement.

(2) An agreement under sub-paragraph (1) may—

- (a) relate to some or of all the backdated liability;
- (b) provide for the backdated liability to be discharged in instalments over a period not exceeding eight years, commencing on the day that the agreement is reached.

(3) An agreement under this paragraph shall provide that in each year (starting on the day the agreement is made) it is in force, the ratepayer will pay an amount calculated in accordance with the formula—

$$\frac{A}{B}xC$$

where—

- (a) A equals the amount of the backdated liability to which the agreement relates;
- (b) B equals the total number of days the agreement will be in force; and
- (c) C equals the number of days the agreement will be in force in the year in question.

### **Agreement to reschedule liability: further provision**

3.—(1) An agreement under paragraph 2 shall continue in force notwithstanding any alteration in the amount of the backdated liability.

(2) In particular, an agreement shall not be rendered invalid by reason of a further alteration to a rating list which, had that alteration had effect on the day the agreement was made, would have resulted in the requirements of paragraph 1 not being met.

(3) An agreement shall make provision for the adjustment of payments in the event of the amount of the backdated liability specified in one or more of the demand notices turning out to be wrong and may specify that any overpayment—

- (a) shall be returned if the ratepayer so requires, or
- (b) in any other case shall (as the billing authority determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the authority in respect of non-domestic rates.

### **Modification of regulation 8**

4. If the billing authority enters into an agreement under this Schedule, regulation 8 (failure to pay instalments) shall have effect as regards the backdated liability to which the agreement relates as if, for paragraph (1), there were substituted—

“(1) Where—

- (a) a demand notice has been served by a billing authority on a ratepayer,
- (b) instalments are payable under the notice in accordance with Schedule 1 or an agreement under Schedule 1A, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, the agreement,

the billing authority shall (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid.”

and regulation 8 and Part 3 of these Regulations shall be construed accordingly.”

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”) to make special provision in relation to the collection of certain backdated liability to rates.

The 1989 Regulations provide for annual rates liability to be discharged in instalments in many cases. However, where a demand notice – or rates bill – is issued after the end of the financial year to which it relates, the sum becomes payable in full. This can happen where a hereditament is shown on a rating list for the first time with effect from a date in that year following an amendment to the rating list which is not made until after the year has ended.

These Regulations insert a new Schedule 1A into the 1989 Regulations to provide that where a ratepayer is subject to backdated liability that has not already been discharged, the billing authority and the ratepayer can agree to reschedule the liability that accrued in the period between the effective date of the amendment to the rating list and the date the amendment was actually made, so that it is payable over a period not exceeding eight years. The criteria that must be satisfied before a ratepayer can take advantage of these arrangements are set out in paragraph 1 of new Schedule 1A. In particular, paragraph 1 provides that the arrangements in new Schedule 1A will apply only where backdated liability arises as a result of a change to a rating list which is made on or before 31st March 2010 and where the demand notice (or notices) in respect of the liability was issued in the financial year beginning on 1st April 2007, 1st April 2008 or 1st April 2009.

The power to make an agreement to reschedule backdated liability is in paragraph 2 of new Schedule 1A, which also requires the backdated liability to be divided equally between each year the agreement is in force. Paragraph 3 provides that agreements reached in relation to backdated liability will continue to govern the discharge of that liability even if a further alteration to a rating list means that the conditions for making the agreement would not have been met if that change had been effective on the day the agreement was made. Paragraph 4 modifies regulation 8 with the effect that the rates enforcement regime in Part 3 of the 1989 Regulations will apply if a ratepayer fails to pay an instalment due in accordance with an agreement under new Schedule 1A.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Communities and Local Government’s Business Rates and Valuation Division (telephone 020 7944 4224) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).

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