

**2010 No. 1656**

**RATING AND VALUATION, ENGLAND**

**The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (England) (Amendment) (No.2) Regulations 2010**

*Made* - - - - - *24th June 2010*

*Laid before Parliament* *28th June 2010*

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by sections 143(1) and (2) of, paragraphs 6(5) and (6) of Schedule 8 to, and paragraphs 1 to 4 of Schedule 9 to, the Local Government Finance Act 1988(a), makes the following Regulations:

**Application, citation and commencement**

1. These Regulations, which apply to England only, may be cited as the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (England) (Amendment) (No.2) Regulations 2010 and shall come into force on 23rd July 2010 immediately after the coming into force of the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2010(b).

**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(c) are amended as follows.

(2) After regulation 6(1), insert—

“(1A) Where, as a result of the application of article 7 of the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004(d) and in accordance with that Order, there is any change to the amount which the ratepayer is liable to pay to the billing authority as regards the hereditament, the authority’s estimate under paragraph (1) of the amount payable shall take account of such change.”.

(3) In regulation 7(1), after “the demand notice is issued”, insert “or paragraph (1A) applies”.

(4) After regulation 7(1), insert—

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- (a) 1988 c.41. Paragraph 6 of Schedule 8 has been amended by section 139 of and Schedule 5 to the Local Government and Housing Act 1989 (c.42), section 104 of and Schedule 10 to the Local Government Finance Act 1992 (c.14), and sections 71 and 117 of the Local Government Act 2003 (c.26). Paragraphs 1 to 4 of Schedule 9 have been amended by sections 139 and 194 of and Schedule 5 to the Local Government and Housing Act 1989 (c.42) and section 117 of and Schedule 13 to the Local Government Finance Act 1992 (c.14).
- (b) S.I. 2010/1655.
- (c) S.I. 1989/1058. Regulations 6, 7 and 8 and Schedule 1 have been amended by S.I. 1993/616. Regulation 8 has also been amended by S.I. 1992/1512. Schedule 1 has also been amended by S.I. 1991/141, S.I. 1991/1127, S.I. 1992/1512, and S.I. 1993/1493. Other amendments have been made to S.I. 1998/1058 which are not relevant to these Regulations.
- (d) S.I. 2004/3315. Article 7 was inserted by the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2010 (S.I. 2010/1655).

“(1A) Unless an agreement under paragraph (3) in relation to the relevant year has been reached between the ratepayer and the billing authority before the demand notice is issued, where—

- (a) the chargeable financial year begins on 1st April 2011;
  - (b) it appears to the billing authority that the estimate of the amount payable for that year would fall to be calculated by reference to section 43(4A) of the Act or by reference to the rules prescribed in regulation 10(6) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009(a); and
  - (c) the rateable value of the hereditament concerned is not more than £12,000,
- a notice to which regulation 6(1) applies shall require the estimate of the amount payable to be paid in instalments in accordance with Schedule 1E. ”.

(5) In regulation 7(3), for “Schedule 1” substitute “Schedules 1 or 1E”.

(6) In regulation 7(4), for “Schedule 1” substitute “Schedules 1 or 1E”.

(7) In regulation 8(1)—

- (a) in sub-paragraph (b), for “Schedule 1” substitute “Schedules 1 or 1E”; and
- (b) in sub-paragraph (c), for “the Schedule” substitute “Schedules 1 or 1E”.

(8) In regulation 8(8)—

- (a) after “paragraph 7B”, insert “or paragraph 7D”; and
- (b) after “Schedule 1”, insert “, or under paragraph 7 of that Schedule as modified by paragraph 5(3) of Schedule 1E,”.

(9) In Schedule 1—

- (a) in paragraph 7—
  - (i) in sub-paragraph (1), for “sub-paragraph (1A)”, substitute “sub-paragraphs (1A) and (1B)”;
  - (ii) after sub-paragraph (1A), insert—

“(1B) This paragraph does not apply in a case to which paragraph 7D applies.”.

(b) After paragraph 7C, insert—

“**7D.**—(1) This paragraph applies where—

- (a) the demand notice has been served on a ratepayer by a billing authority;
- (b) the year to which the demand notice relates is the chargeable financial year which began on 1st April 2010;
- (c) the authority’s estimate under regulation 6(1) for the purposes of the demand notice (“the original estimate”) was made before 1st October 2010;
- (d) the original estimate is, as a result of amendments made to the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004 which have effect on 1st October 2010 (“the Small Business Rate Relief Order changes”), shown to be false; and
- (e) the event mentioned in paragraph 6(1) has not occurred as regards the hereditament to which the demand notice relates.

(2) The billing authority shall as soon as practicable—

- (a) adjust the instalments (if any) payable on or after the SBRR adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (5); and
- (b) serve a notice (“SBRR adjustment notice”) on the ratepayer which is to state—

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(a) S.I. 2009/3343.

- (i) the amount of the estimate mentioned in sub-paragraph (4) (“the new estimate”); and
- (ii) the amount of each remaining instalment.

(3) An SBRR adjustment notice shall be served at least 14 clear days before the day on which an instalment falls to be paid under the demand notice.

(4) The new estimate is the estimate of the billing authority of the revised amount payable for the financial year beginning on 1st April 2010 having regard to the Small Business Rate Relief Order changes.

(5) The aggregate amount of the remaining instalments payable after the SBRR adjustment day shall be equal to the amount by which the new estimate exceeds the aggregate amount of the instalments payable under the demand notice before the SBRR adjustment day; and the amount of each remaining instalment shall be calculated in accordance with paragraphs 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.

(6) Insofar as the aggregate of any amounts paid (by reference to the original estimate) before the SBRR adjustment day exceeds the amount of the new estimate, the amount of the excess—

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

(7) In this paragraph, “the SBRR adjustment day” means 1st October 2010.

(8) An SBRR adjustment notice need not be given on a single sheet of paper but if more than one sheet is used, the sheets shall be issued together, whether or not attached, so as to comprise one notice.”.

(10) After Schedule 1D, insert Schedule 1E as set out in the Schedule to these Regulations.

### **Modification of the Non-Domestic Rating Contributions (England) Regulations 1992**

3. For the financial year beginning on 1st April 2010, regulation 6 (recalculation of provisional amounts) of the Non-Domestic Rating Contributions (England) Regulations 1992(a) shall have effect as if there were omitted paragraphs (2)(b) and (4).

Signed by authority of the Secretary of State for Communities and Local Government

24th June 2010

*Bob Neill*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

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(a) S.I. 1992/3082. Regulation 6 has been amended by S.I. 1993/1496 and S.I. 1996/561. Other amendments have been made to S.I. 1992/3082 which are not relevant to these Regulations.

## SCHEDULE

Regulation 2(10)

### “SCHEDULE 1E

Regulation 7(1A)

#### Small Business Rate Relief: special provision in relation to the instalment scheme for 2011/12

**1.—**(1) This paragraph applies where the demand notice is issued before the relevant year or, if during the relevant year, on or before 30th September 2011.

(2) The aggregate amount is to be paid in monthly instalments, the number of instalments being 10 or, if less, the number of whole months remaining before 1st April 2012 after the issue of the notice less one.

(3) Where the demand notice is issued in May of the relevant year, the number of instalments may be 10 or the number ascertained in accordance with sub-paragraph (2), as the billing authority determines.

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

(5) The amounts of the monthly instalments shall be as follows—

(a) the billing authority shall estimate the amount to be paid in any instalments payable on or before 30th September 2011 by dividing the first period amount by the number of instalments payable on or before 30th September 2011;

(b) the billing authority shall estimate the amount to be paid in any instalments payable on or after 1st October 2011 by dividing the second period amount by the number of instalments payable on or after 1st October 2011; and

(c) in this paragraph—

(i) “the first period amount” means the proportion of the aggregate amount estimated to be payable in respect of the period starting with 1st April 2011 and ending with 30th September 2011, calculated by reference to the amount payable in respect of each day in that period; and

(ii) “the second period amount” means the proportion of the aggregate amount estimated to be payable in respect of the period starting with 1st October 2011 and ending with 31st March 2012, calculated by reference to the amount payable in respect of each day in that period.

(6) The amounts payable for each instalment shall be specified in the notice.

**2.** Where the demand notice is issued after 30th September 2011 but on or before 31st December 2011, Part I of Schedule 1 applies as if the reference in paragraph 1(1) to a demand notice issued on or before 31st December in the relevant year was to a demand notice issued after 30th September 2011 and on or before 31st December 2011.

**3.** Where the demand notice is issued after 31st December 2011 and on or before 31st March 2012, Part I of Schedule 1 applies as if the reference in paragraph 2 to the relevant year was to the year 2012.

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

**5.—**(1) Part II of Schedule 1 shall apply to a demand notice issued under this Schedule, with the following modifications.

(2) Paragraph 6 shall have effect as if the references to “the relevant year” were references to the financial year beginning on 1st April 2011.

(3) Paragraph 7 shall have effect as if the following were substituted—

“7.—(1) This paragraph applies where the demand notice has been served on a ratepayer by a billing authority, 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) has not occurred as regards the hereditament to which the notice relates.

(2) Where as a result of the factor or assumption referred to in sub-paragraph (1) being shown to be false, it appears to the billing authority that the estimate of the amount payable for that year would no longer fall to be calculated by reference to section 43(4A) of the Act or by reference to the rules prescribed in regulation 10(6) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009, sub-paragraphs (5) to (9) shall apply.

(3) Except for the circumstances set out in sub-paragraph (4), where as a result of the factor or assumption referred to in sub-paragraph (1) being shown to be false, it appears to the billing authority that the estimate of the amount payable for that year would fall, or continue to fall, to be calculated by reference to section 43(4A) of the Act or by reference to the rules prescribed in regulation 10(6) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009, sub-paragraphs (10) to (12) shall apply.

(4) (a) The circumstances referred to in sub-paragraph (3) are where the rateable value of the hereditament is, as result of the factor or assumption referred to in sub-paragraph (1) being shown to be false, on the relevant day, more than £12,000.

(b) In those circumstances, sub-paragraphs (5) to (9) shall apply.

(5) The billing authority shall on or as soon as practicable after the relevant day—

(a) 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 (7); and

(b) serve a notice on the ratepayer which is to state—

(i) the amount of the revised estimate mentioned in sub-paragraph (6); and

(ii) the amount of each remaining instalment.

(6) The amount is the revised estimate of the billing authority of the amount payable for the relevant year in relation to the hereditament 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 (5) above.

(7) The aggregate amount of the remaining instalments shall be equal to the amount by which the revised estimate mentioned in sub-paragraph (6) 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 as follows—

(a) if the aggregate amount of the remaining instalments divided by the number of remaining instalments gives an amount which is a multiple of a pound, the remaining instalments shall be of that amount;

(b) if the aggregate amount of the remaining instalments so divided would not give such an amount, all but the first of the remaining instalments shall be of an amount equal to A and the first of the remaining instalments shall be of an amount equal to B, where—

$A = C$  divided by  $D$ , rounded up or down (as the case may be) to the nearest multiple of a pound,

$$B = C - ((D - 1)xA),$$

$C$  is equal to the aggregate amount of the remaining instalments, and

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

(8) If the revised estimate mentioned in sub-paragraph (6) 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 billing authority 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 (5) 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 Part II of these Regulations—

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

(9) Where a notice has been given under sub-paragraph (5), 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-paragraph (7)(a) and (b) above in consequence of the calculation of the revised estimate mentioned in sub-paragraph (6), there shall not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under paragraph 10(4) of Schedule 7 to the Act or has been paid (or credited) by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990.

(10) If the relevant day is on or before 30th September 2011—

- (a) the billing authority shall on or as soon as practicable after the relevant day—
  - (i) calculate the revised estimate of the amount payable for the relevant year in relation to the hereditament made on the assumptions mentioned in regulation 6(1) (“the revised estimate”); and
  - (ii) serve a notice on the ratepayer which is to state—
    - (aa) the amount of the revised estimate; and
    - (bb) the amount of any remaining instalment;
- (b) the aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate 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 paragraphs 1(4) to (5) as if the reference to 1st April 2011 was to the relevant day;
- (c) if 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 Part II of these Regulations—
  - (i) shall be repaid if the ratepayer so requires, or
  - (ii) in any other case shall (as the billing authority determines) either be repaid or reccredited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.

(11) If the relevant day is after 30th September 2011—

- (a) the billing authority shall on or as soon as practicable after the relevant day—

- (i) calculate the revised estimate of the amount payable for the relevant year in relation to the hereditament made on the assumptions mentioned in regulation 6(1) (“the revised estimate”); and
- (ii) serve a notice on the ratepayer which is to state—
  - (aa) the amount of the revised estimate; and
  - (bb) the amount of any remaining instalment;
- (b) the aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate 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) (ignoring any reference to instalments payable on or before 30th September 2011) 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, and references to 1st October 2011 were references to the relevant day;
- (c) if 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 Part II of these Regulations—
  - (i) shall be repaid if the ratepayer so requires, or
  - (ii) in any other case shall (as the billing authority determines) either be repaid or recredited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.

(12) In this paragraph, “the adjustment day” means the day 14 days after the day the notice served under sub-paragraphs (5)(a), (10)(a) or (11)(a) is issued.”.

(7) Paragraphs 7A, 7B and 7C shall not apply.

(8) Paragraph 8 shall have effect as if the references to paragraphs 7(1) and (3), 7A(1)(d) and (5) and 7B(1)(b) were to paragraphs 7(2) and (6).

(9) Paragraph 9(2) shall not apply.

**6.** In this Schedule—

“aggregate amount” means the amount of the estimate referred to in regulation 6(1) or if pursuant to regulation 4(3) the demand notice relates to more than one hereditament for which such an estimate is made, the aggregate of the amount of those estimates;

“relevant year” means the financial year beginning on 1st April 2011.”

## EXPLANATORY NOTE

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

These Regulations make provision for the amendment of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and for minor associated amendments to the Non-Domestic Rating Contributions (England) Regulations 1992 and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, following changes to the level of Small Business Rate Relief between 1st October 2010 and 30th September 2011, for certain ratepayers who meet the relevant conditions.

Regulation 2 and the Schedule amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 to allow for different arrangements for the financial years of 2010 to 2011 and 2011 to 2012, so that the increased level of relief is apportioned to the correct parts of the financial years.

Regulation 3 amends the Non-Domestic Rating Contributions (England) Regulations 1992 to allow authorities to amend their payments under these Regulations in the financial year 2010 to 2011.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 978-0-11-149966-5

£5.75

E7345 6/2010 107345T 19585

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