WELSH STATUTORY INSTRUMENTS

2010 No. 2222 (W.194)

RATING AND VALUATION, WALES

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (Wales) Regulations 2010

Made - - - - 4 September 2010
Laid before the National Assembly for Wales - - 8 September 2010

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by section 143(1) and (2) and paragraphs 1 to 4 of Schedule 9 to, the Local Government Finance Act(**1**) and now vested in them(**2**), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (Wales) Regulations 2010.

(2) These Regulations come into force on 1 October 2010 immediately after the coming into force of the Non-Domestic Rating (Small Business Rate Relief) (Wales) (Amendment) (No.2) Order 2010(**3**).

(3) These Regulations apply in relation to Wales.

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(**4**) are amended as follows.

(**1**) 1988 c. 41. 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).

(**2**) The powers of the Secretary of State were transferred, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2010/2223 (W.195).

(**4**) 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. 1990/145, S.I. 1991/141, S.I. 1991/1127, S.I. 1993/1493. Other amendments have been made to S.I. 1989/1058 which are not relevant to these Regulations.

(2) After regulation 6(1A), insert—

"(1B) Where, as a result of the application of article 11A of the Non-Domestic Rating (Small Business Relief) (Wales) Order 2008(**5**) 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 is to take account of such change.".

(3) In regulation 7(1), after "or paragraph (1A)", insert "or paragraph (1B)".

(4) After regulation 7(1A), insert—

"(1B) 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 1 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; and

(c) the rateable value of the hereditament concerned is not more than £12,000,

a notice to which regulation 6(1) applies must require the estimate of the amount payable to be paid in instalments in accordance with Schedule 1F.".

(5) In regulation 7(3), after "Schedules 1 or 1E" insert "or 1F".

(6) In regulation 7(4), after "Schedule 1 or 1E" insert "or 1F".

(7) In regulation 8(1)—

(a) in sub-paragraph (b), after "Schedules 1 or 1E" insert "or 1F"; and

(b) in sub-paragraph (c), after "Schedules 1 or 1E" insert "or 1F".

(8) In regulation 8(8)—

(a) after "paragraph 7B", insert "or paragraph 7C"; and

(b) after "paragraph 7D", insert "or paragraph 7E"; and

(c) after "Schedule 1E", insert "or paragraph 5(3) of Schedule 1F,".

(9) In Schedule 1—

(a) in paragraph 7—

(i) in sub-paragraph (1), after "and (1B)", insert "and (1C)"; and

(ii) after sub-paragraph (1B), insert—

"(1C) This paragraph does not apply in a case to which paragraph 7E applies.".

(b) After paragraph 7D, insert—

"**7E.**—(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 1 April 2010;

(c) the authority's estimate under regulation 6(1) for the purposes of the demand notice ("the original estimate") was made before 1 October 2010;

(d) the original estimate is, as a result of amendments made to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2008 which have effect on 1

(**5**) S.I. 2008/2770 (W.246) as amended by S.I. 2010/273 (W.36) and S.I. 2010/2223 (W.195).

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 must as soon as practicable—

(a) adjust the instalments (if any) payable on or after the Small Business Rate Relief ("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 —

(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 must 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 1 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 must 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 must be calculated in accordance with paragraph 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) must be repaid if the ratepayer so requires;

(b) in any other case, must (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 1 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 are to be issued together, whether or not attached, so as to comprise one notice.".

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

Carl Sargeant
Minister for Social Justice and Local Government, one of the Welsh Ministers

4 September 2010

SCHEDULE Regulation 2(10)

"SCHEDULE 1F Regulation 7(1B)

Small Business Rate Relief in relation to Wales: 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 30 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 1 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 are to be as follows—

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

(b) the billing authority must estimate the amount to be paid in any instalments payable on or after 1 October 2011 by dividing the second period amount by the number of instalments payable on or after 1 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 1 April 2011 and ending with 30 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 1 October 2011 and ending with 31 March 2012, calculated by reference to the amount payable in respect of each day in that period.

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

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

3. Where the demand notice is issued after 31 December 2011 and on or before 31 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 must 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 applies to a demand notice issued under this Schedule with the following modifications.

(2) Paragraph 6 is to have effect as if the references to "the relevant year" were references to the financial year beginning on 1 April 2011.