WELSH STATUTORY INSTRUMENTS

# 2008 No. 2499 (W.217)

# RATING AND VALUATION, WALES

## The Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008

| | |
|---|---|
| *Made - - - -* | *20 September 2008* |
| *Laid before the National Assembly for Wales - -* | *23 September 2008* |
| *Coming into force - -* | *1 November 2008* |

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 45(1)(d), (9) and (10), 143(2) and 146(6) of the Local Government Finance Act 1988(**1**) and now vested in them(**2**), make the following Regulations:

### Title, application and commencement

**1.**—(1) The title of these Regulations is The Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008 and they come into force on 1 November 2008.

(2) These Regulations apply in relation to Wales.

### Interpretation

**2.** In these Regulations—

"the Act" ("*y Ddeddf*") means the Local Government Finance Act 1988;

"qualifying industrial hereditament" ("*hereditament diwydiannol cymwys*") means any hereditament, other than a retail hereditament, in relation to which all buildings comprised in the hereditament are—

(a) constructed or adapted for use in the course of a trade or business; and

(b) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto—

(**1**) 1988 c. 41; section 45(1)(d) was amended, and subsections (9) and (10) were inserted, by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraphs 23(2) and (3) and 79(3).

(**2**) The functions of the Secretary of State contained in the Local Government Finance Act 1988 in relation to Wales were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, article 2, Schedule 1). The functions of the National Assembly for Wales were vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(i) the manufacture, repair or adaptation of goods or materials, or the subjection of goods or materials to any process;

(ii) storage (including the storage or handling of goods in the course of their distribution);

(iii) the working or processing of minerals; and

(iv) the generation of electricity;

"relevant non-domestic hereditament" ("*hereditament annomestig perthnasol*") means any non-domestic hereditament consisting of, or of part of, any building, together with any land ordinarily used or intended for use for the purposes of the building or part; and

"retail hereditament" ("*hereditament masnachol*") means any hereditament where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose of the retail provision of—

(a) goods, or

(b) services, other than storage for distribution services, where the services are to be provided on or from the hereditament.

**Hereditaments prescribed for the purposes of section 45(1)(d) of the Act**

**3.** The class of non-domestic hereditaments prescribed for the purposes of section 45(1)(d) of the Act consists of all relevant non-domestic hereditaments other than those described in regulation 4.

**Hereditaments not prescribed for the purposes of section 45(1)(d) of the Act**

**4.** The relevant non-domestic hereditaments described in this regulation are any hereditament—

(a) the whole of which, subject to regulation 5, has been unoccupied for a continuous period not exceeding three months;

(b) which is a qualifying industrial hereditament and the whole of which, subject to regulation 5, has been unoccupied for a continuous period not exceeding six months;

(c) whose owner is prohibited by law from occupying it or allowing it to be occupied;

(d) which is kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the hereditament or to acquiring it;

(e) which is the subject of a building preservation notice within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990(**3**) or is included in a list compiled under section 1 of that Act;

(f) which is included in the Schedule of monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979(**4**);

(g) whose rateable value is less than £2,200;

(h) whose owner is entitled to possession only in his or her capacity as the personal representative of a deceased person;

(i) where, in respect of the owner's estate, there subsists a bankruptcy order within the meaning of section 381(2) of the Insolvency Act 1986(**5**);

(**3**) 1990 c. 9. "Building preservation notice" is defined in section 91(1).
(**4**) 1979 c. 46.
(**5**) 1986 c. 45.