WELSH STATUTORY INSTRUMENTS

2005 No. 758 (W.63)

RATING AND VALUATION, WALES

The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005

Made - - - -	*15 March 2005*
Coming into force - -	*1 April 2005*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by the following provisions of the Local Government Finance Act 1988(**1**) and now vested in it, and after consultation with the Council on Tribunals as required by section 8 of the Tribunals and Inquiries Act 1992(**2**) —

sections 42(5), 53(5), 55(2) to (6) and (7A), 143(1) and (2); paragraph 2(6A) of Schedule 6; paragraphs 10 to 12 of Schedule 7A; paragraph 6(1A) of Schedule 9; and paragraphs 1, 4, 5, 6, 8, 11, 12 and 14 to 16 of Schedule 11:

PART 1

Preliminary

Name, application and commencement

1. These Regulations, which apply in relation to Wales only, are called the Non-Domestic Rating (Alterations of Lists and Appeals) (Wales) Regulations 2005 and shall come into force on 1 April 2005.

Interpretation: General

2.—(1) In these Regulations —

"the Act" means the Local Government Finance Act 1988;

"appeal" means an appeal under —

(**1**) 1988 c. 41. Section 55(7A) and paragraph 6(1A) of Schedule 9 were inserted by paragraph 30(5) and 47 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 2(6A) was inserted by the Local Government and Housing Act 1989 and substituted by paragraph 4 of Schedule 10 to the Local Government Finance Act 1992 (c. 14). These powers were devolved, 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), *see t*he reference to the Local Government Finance Act 1988 in Schedule 1.

(**2**) 1992 c. 53.

(a) regulation 8 or 13;

(b) paragraph 4 of Schedule 4A(**3**) to the Act as it applies for the purposes of Part 3 of the Act (in these Regulations called an "appeal against a completion notice"); or

(c) paragraph 5C of Schedule 9 to the Act (in these Regulations called an "appeal against imposition of a penalty");

"authority" means a billing authority;

"clerk", in relation to an appeal, means the clerk of the relevant valuation tribunal;

"completion notice" means a notice under paragraph 1 of Schedule 4A to the Act as it applies for the purposes of Part 3 of the Act (non-domestic rating), which states the completion day as 1 April 2005 or later;

"interested person" means —

(a) in relation to a hereditament which forms part of the Crown Estate and is held by the Crown Estate Commissioners under their management within the meaning of section 1 of the Crown Estate Act 1961(**4**), the Crown Estate Commissioners,

(b) in relation to any other hereditament,

(i) the occupier;

(ii) any other person (other than a mortgagee not in possession) having in any part of the hereditament either a legal estate, or an equitable interest such as would entitle them (after the cessation of any prior interest) to possession of the hereditament or any part of it; and

(iii) any person having a qualifying connection with any person described in sub-paragraph (i) or (ii);

"National Assembly" means the National Assembly for Wales;

"proposal" means a proposal for the alteration of a local non-domestic rating list or the central non-domestic rating list;

"proposer" means the person making a proposal;

"qualifying connection" has the meaning given in paragraph (2);

"ratepayer", in relation to a hereditament, means the occupier or, if the hereditament is unoccupied, the owner;

"relevant authority", in relation to a hereditament, means the authority in whose area the hereditament is situated;

"subsidiary", "company" and "holding company" have the same meanings as in sections 736 and 736A of the Companies Act 1985(**5**);

"the relevant valuation tribunal", in relation to a proposal or appeal and subject to regulation 22, means the valuation tribunal established by regulations under Schedule 11 to the Act for the area in which is situated the hereditament to which the proposal or appeal, as the case may be, relates; and

"valuation tribunal" means the members of a valuation tribunal convened in accordance with Part 5 for the purpose of disposing of an appeal under these Regulations.

(2) A person shall be treated as having a qualifying connection with another —

(a) where both persons are companies, and —

(**3**) Schedule 4A was inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).
(**4**) 1961 c. 55.
(**5**) 1985 c. 6. Section 736A was inserted by section 144 of the Companies Act 1989 (c. 40).

(i) one is a subsidiary of the other; or

(ii) both are subsidiaries of the same company; or

(b) where only one person is a company, the other person (the "second person") has such an interest in that company as would, if the second person were a company, result in its being the holding company of the other.

(3) Any reference in these Regulations to a party to an appeal includes the person making the appeal ("the appellant") and —

(a) in relation to an appeal under —

(i) regulation 8; or

(ii) an appeal against imposition of a penalty,

the valuation officer or, as the case may be, the central valuation officer;

(b) in relation to an appeal under regulation 13 —

(i) every person whose agreement is required under regulation 12; and

(ii) any other person who has been a ratepayer in relation to the hereditament since the proposal was made and who has notified the valuation officer in writing before the hearing, or before determination on the basis of written representations under regulation 25, that they wish to be a party to the appeal;

(c) in relation to an appeal against a completion notice, the relevant authority.

PART 2

Alteration of Local Rating Lists

Interpretation: Part 2

3.—(1) In this Part —

"alteration" means alteration of a list in relation to a particular hereditament, and "alter" shall be construed accordingly;

"list" means a local non-domestic rating list compiled on or after 1 April 2005;

"material change of circumstances", in relation to a hereditament, means a change in any of the matters mentioned in paragraph 2(7) of Schedule 6 to the Act;

"valuation officer", in relation to a list, means the valuation officer for the authority for which the list is compiled and maintained.

Circumstances in which proposals may be made

4.—(1) The grounds for making a proposal to alter a list are as follows —

(a) the rateable value shown in the list for a hereditament was inaccurate on the day the list was compiled;

(b) the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the day on which the list was compiled;

(c) the rateable value shown in the list for a hereditament is inaccurate by reason of an amendment to the classes of plant and machinery set out in the Schedule to the Valuation

for Rating (Plant and Machinery) (Wales) Regulations 2000(**6**) which comes into force on or after the day on which the list was compiled;

(d) the rateable value shown in the list for a hereditament by reason of an alteration made by a valuation officer is or has been inaccurate;

(e) the rateable value or any other information shown in the list for a hereditament is shown, by reason of a decision in relation to another hereditament of a valuation tribunal, the Lands Tribunal or a court determining an appeal or application for review from a valuation tribunal or the Lands Tribunal, to be or to have been inaccurate;

(f) the day from which an alteration is shown in the list as having effect is wrong;

(g) a hereditament not shown in the list ought to be shown in that list;

(h) a hereditament shown in the list ought not to be shown in that list;

(i) the list should show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does not do so;

(j) the list should not show that some part of a hereditament which is shown in the list is domestic property or is exempt from non-domestic rating but does so;

(k) property which is shown in the list as more than one hereditament ought to be shown as one or more different hereditaments;

(l) property which is shown in the list as one hereditament ought to be shown as more than one hereditament;

(m) the address shown in the list for a hereditament is wrong;

(n) the description shown in the list for a hereditament is wrong; and

(o) any statement required to be made about the hereditament under section 42 of the Act has been omitted from the list.

(2) Subject to paragraph (3) —

(a) an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1) exists;

(b) a relevant authority may make a proposal where it has reason to believe that one of the grounds set out in paragraph (1)(b), (e) and (g) to (j) exists; and

(c) a person who is not an interested person may make a proposal where that person has reason to believe that one of the grounds set out in paragraph (1)(c), (d) or (f) exists if that person was an interested person at any time during which the alteration or amendment in question had effect.

(3) No proposal may be made —

(a) by reference to more than one ground unless, for each of the grounds relied upon, the material day and the effective date are the same;

(b) by an interested person, where —

(i) that person (or a person having a qualifying connection with that person) has made a proposal to alter the same list in relation to the same hereditament on the same ground and arising from the same event;

(ii) a proposal to alter the list in relation to the same hereditament and arising from the same facts has been made by another person (excluding a person having a qualifying connection with the interested person) and has been considered and determined by a valuation tribunal (otherwise than as mentioned in regulation 30(4)) or, on appeal under regulation 37, by the Lands Tribunal;

(**6**) S.I. 2000/1097 (W.75).

(c) on the ground set out in paragraph (1)(d), to the extent that the alteration in question gives effect to the decision of a valuation tribunal, the Lands Tribunal or a court determining an appeal or an application for a review from a valuation tribunal or Lands Tribunal in relation to the hereditament concerned.

(4) In paragraph (3) —

(a) "effective date" means the day from which the alteration, if made, would have effect in pursuance of this Part;

(b) "event" means the compilation of the list, a material change of circumstances or an alteration of the list by the valuation officer; and

(c) "material day", in relation to a hereditament, is the day determined by the rules in regulations under paragraph 2(6A) of Schedule 6 to the Act(**7**).

Periods in which proposals may be made: 2005 list and subsequent lists

5.—(1) Subject to paragraph (2), a proposal to alter a list compiled on or after 1 April 2005 may be made at any time before the day on which the next list is compiled.

(2) A proposal on the ground set out in —

(a) regulation 4(1)(d) or (f) may only be made before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later;

(b) regulation 4(1)(e) may only be made within six months of the day on which the next list is compiled.

Proposals: general

6.—(1) A proposal shall be made by notice in writing served on the valuation officer which must —

(a) state the name and address of the proposer;

(b) state whether the proposer is, in respect of the property —

(i) the interested person;

(ii) the relevant authority; or

(iii) a person described in regulation 4(2)(c);

(c) identify the property to which the proposal relates;

(d) identify the respects in which it is proposed that the list be altered; and

(e) include —

(i) a statement of the grounds for making the proposal and, in the case of a proposal made on any of the grounds set out in regulation 4(1)(a), (c) or (g) to (o), a statement of the reasons for believing that those grounds exist;

(ii) in the case of a proposal made on the ground set out in regulation 4(1)(b), a statement of the nature of the change in question and of the date on which the proposer believes the change occurred;

(iii) in the case of a proposal made on the ground set out in regulation 4(1)(d) or (f), a statement identifying the alteration in question, whether by reference to the day on which the alteration was made or otherwise;

(**7**) Paragraph 2(6A) was inserted by paragraph 38 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42) and substituted by paragraph 4 of Schedule 10 to the Local Government Finance Act 1992 (c. 14).