Draft Regulations laid before Parliament under section 143(4) of the Local Government Finance Act 1988, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009

Approved by both Houses of Parliament

*Made - - - - ***2009*

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by sections 57A, 140(4) and 143(1) and (2) of the Local Government Finance Act 1988(**1**), makes the following Regulations, of which a draft was laid before and approved by a resolution of each House of Parliament in accordance with section 143(4) of that Act:

PART 1

Preliminary

Application, citation, commencement and interpretation

1.—(1) These Regulations, which apply to England only, may be cited as the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 and shall come into force on the day after the day on which they are made.

(2) In these Regulations—

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

"the Appeals Regulations" means the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009(**2**);

"altered hereditament" has the meaning given by paragraph 1 of Schedule 1 to these Regulations;

"appropriate valuation officer"—

(**1**) 1988 c. 41. Section 57A was inserted by section 65 of the Local Government Act 2003 (c.26) and section 143(4) was amended by paragraphs 9 and 24(1) and (3) of Schedule 7 to the same Act.

(**2**) S.I. 2009/2269

(a) in relation to a hereditament in respect of which regulations under section 53(1) of the Act (contents of central lists) are in force, means the central valuation officer;

(b) in relation to any other hereditament, means the valuation officer maintaining a local list in which the hereditament is, or would be, shown;

"central list" means the list compiled and maintained in accordance with section 52 of the Act;

"creation day" has the meaning given by paragraph 1 of Schedule 2;

"defined hereditament" has the meaning given by regulation 3;

"designated person" means a person designated under section 53(1) of the Act;

"local list" means a list compiled and maintained in accordance with section 41 of the Act;

"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;

"relevant day" has the meaning given by regulation 2(2);

"relevant factor" means—

(c) any matter mentioned in paragraph 2(7) of Schedule 6 to the Act, or

(d) the extent to which a hereditament is exempt from non-domestic rating;

"relevant period" has the meaning given by regulation 2(1); and

"relevant year" has the meaning given by regulation 2(3).

(3) References in these Regulations to the hereditament of a designated person are references to any hereditament or, as the case may be, description or class of hereditaments prescribed under section 53(1) of the Act as respects that designated person.

Relevant period, relevant day and relevant year

2.—(1) The relevant period in relation to which, in accordance with section 57A of the Act, these Regulations apply, is the period beginning on 1st April 2010 and ending on 31st March 2015.

(2) A relevant day is a day falling within the relevant period.

(3) A relevant year is a financial year falling within the relevant period.

Defined hereditaments

3.—(1) Subject to paragraph (3), as regards a relevant day, a hereditament is a defined hereditament if—

(a) the conditions in paragraph (2) are fulfilled; or

(b) it meets the conditions specified in paragraph 2 of Schedule 1; or

(c) it meets the conditions specified in paragraph 1 of Schedule 2.

(2) For the purposes of paragraph (1)(a), the conditions are that the hereditament is shown in any list for—

(a) 31st March 2010;

(b) the relevant day, with a rateable value greater than zero; and

(c) each day (if any) falling after 31st March 2010 and before the relevant day, with a rateable value greater than zero.

(3) Where the hereditament of a designated person is a defined hereditament by virtue of paragraph (1) on 1st April 2010 ("the original hereditament"), notwithstanding that on or after 31st March 2010—

(a) part of the original hereditament becomes a hereditament shown on a local list; or

(b) the person ceases to occupy or, if it is unoccupied, own part of the original hereditament,

the conditions in paragraph (2) or paragraphs 1(a), 1(b)(ii) and 1(c) of Schedule 2 shall be treated as fulfilled as respects the whole of the original hereditament for so long as the person continues to be the designated person as respects the original hereditament under section 53(1) of the Act.

Special authorities

4.—(1) This regulation applies in relation to a defined hereditament which is shown in a local list and is situated in the area of a special authority, for a relevant year for which the non-domestic rating multiplier set by the special authority is different from the non-domestic rating multiplier for the year.

(2) Where this regulation applies and D_{SA} exceeds D then, subject to paragraphs (3), (5), (7), (9) and (11), to the result of the calculation of the chargeable amount for the chargeable day for the hereditament in accordance with regulation 10 and Schedule 2, there shall be added the amount calculated by applying the formula—

$$\frac{\left(\left(D_{SA} - D\right) \times N\right)}{C.}$$

(3) Where paragraph (4) applies, paragraph (2) shall have effect as regards the hereditament for the day as if the reference in that paragraph to the formula—

$$\frac{\left(\left(D_{SA} - D\right) \times N\right)}{C}$$

were a reference to—

$$\frac{\left(\left(D_{SA} - D\right) \times N\right)}{\left(C \times 5\right).}$$

(4) This paragraph applies where, on the day concerned, the conditions in section 43(6) of the Act (charities and registered community amateur sports clubs) are fulfilled as respects the hereditament.

(5) Where paragraph (6) applies, paragraph (2) shall have effect as regards the hereditament for the day as if the reference in that paragraph to the formula—

$$\frac{\left(\left(D_{SA} - D\right) \times N\right)}{C}$$

were a reference to—

$$\frac{\left(\left(D_{SA} - D\right) \times N\right)}{C \times E.}$$

(6) This paragraph applies where, on the day concerned, the conditions in section 43(4B) of the Act (small business rate relief) (**3**) are fulfilled as respects the hereditament.

(7) Where paragraph (8) applies, paragraph (2) shall have effect as regards the hereditament for the day as if the reference in that paragraph to the formula—

(**3**) Section 43(4B) was inserted by section 61(3) of the Local Government Act 2003.

$$\frac{\left(\left(D_{SA}-D\right)\times N\right)}{C}$$

were a reference to—

$$\frac{\left(\left(D_{SA}-D\right)\times N\right)}{C\times 2.}$$

(8) This paragraph applies where, on the day concerned, the conditions in section 43(6B) of the Act (general stores etc in rural settlements)(**4**) are fulfilled as respects the hereditament.

(9) Where paragraph (10) applies, paragraph (2) shall have effect as regards the hereditament for the day as if the reference in that paragraph to the formula—

$$\frac{\left(\left(D_{SA}-D\right)\times N\right)}{C}$$

were a reference to—

$$\frac{\left(\left(D_{SA}-D\right)\times N\right)}{C\times Z.}$$

(10) This paragraph applies where, on the day concerned—

(a) the conditions in section 45(1) of the Act (unoccupied hereditaments: liability) are fulfilled as respects the hereditament;

(b) the hereditament is not zero-rated under section 45A of the Act (unoccupied hereditaments: zero-rating)(**5**); and

(c) an order under section 45(4A) of the Act(**6**) is in force and has effect in relation to the hereditament.

(11) Where paragraph 12 applies, paragraph (2) shall have effect in relation to the hereditament for the day as if the amount calculated by applying the formula in that paragraph were zero.

(12) This paragraph applies where, on the day concerned, the chargeable amount for the hereditament would be zero under section 45A of the Act (unoccupied hereditaments: zero-rating).

(13) Where this regulation applies and D_{SA} is less than D, then where the chargeable amount for the chargeable day for the hereditament is calculated in accordance with these Regulations, the chargeable amount shall be multiplied by the formula—

$$\frac{D_{SA}}{D.}$$

(14) For the purposes of this regulation—

D is the small business non-domestic rating multiplier for the relevant year in which the chargeable day falls;

D_{SA} is the small business non-domestic rating multiplier of the special authority concerned for the relevant year in which the chargeable day falls;

(**4**) Section 43(6B) was inserted by section 1 and paragraph 2 of Schedule 1 to the Local Government and Rating Act 1997 (c.29)
(**5**) Section 45A was inserted by section 1(2) of the Rating (Empty Properties) Act 2007 (c. 9).
(**6**) Section 45(4A) was inserted by section 1(1) of the Rating (Empty Properties) Act 2007 (c. 9).

C is the number of days in the relevant year;

E is the amount prescribed under section 44(9) of the Act for the relevant year in which the relevant day falls;

N is the rateable value shown for the hereditament in a local list for the day; and

Z is the number prescribed in an order under section 45(4A) of the Act.

PART 2

Chargeable Amounts

Notional chargeable amount

5.—(1) Subject to paragraphs (3) to (5), the notional chargeable amount for a defined hereditament for a relevant year shall be the amount found by applying the formula—

$$A \times D.$$

(2) For the purposes of this regulation—

A is—

(a) in the case of a hereditament shown in a local list, the rateable value shown for the hereditament for 1st April 2010 in the list;

(b) in the case of a hereditament shown in the central list, the rateable value shown for the hereditament for 1st April 2010 in the list or the value certified by the appropriate valuation officer to be the rateable value which would have been shown in the central list for the hereditament for 1st April 2010 if that had been the only hereditament of the designated person shown in that list for that date; and

D is the small business non-domestic rating multiplier for the relevant year.

(3) Where regulation 12 (change in rateable value on 1st April 2010) applies, references in this regulation to rateable value shall have effect subject to the modifications made in paragraph (2) of that regulation.

(4) For a hereditament to which Schedule 1 (altered hereditaments) applies, paragraph 4 of that Schedule shall have effect for finding the notional chargeable amount.

(5) For a hereditament to which Schedule 2 (splits and mergers) applies, paragraph 7 of that Schedule shall have effect for finding the notional chargeable amount.

Base liability for 2010-11 for a defined hereditament

6.—(1) Subject to paragraph (3), this regulation applies to a defined hereditament.

(2) Where this regulation applies, the base liability for the hereditament for the relevant year beginning on 1st April 2010 shall be found by applying the formula—

$$Y \times Z$$

where—

Y is—

(a) in the case of a hereditament shown in a local list for 31st March 2010, the rateable value shown for the hereditament for that date in a local list, and