

2011 No. 1665

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) (No.2) Regulations 2011

<i>Made</i> - - - -	<i>7th July 2011</i>
<i>Laid before Parliament</i>	<i>12th July 2011</i>
<i>Coming into force</i> - -	<i>3rd August 2011</i>

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) (Amendment) (England) (No.2) Regulations 2011 and shall come into force on 3rd August 2011.

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 (b) are amended as follows.

(2) In regulation 7(1), after “paragraph (1B)”, insert “or paragraph 1C”.

(3) After regulation 7(1B), insert—

“(1C) 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 2012;
- (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; and
- (c) the rateable value of the hereditament concerned is not more than £12,000,

(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. 1989/1058. Regulation 7 has been amended by S.I. 1993/616 and S.I. 2010/1656. Other amendments have also been made to S.I. 1998/1058 which are not relevant to these Regulations.

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 1G.”

- (4) In regulation 7(3), after “1F”, insert “or 1G”.
- (5) In regulation 7(4), after “1F”, insert “or 1G”.
- (6) In regulation 8(1)—
 - (a) In sub-paragraph (b), after “1F”, insert “or 1G”; and
 - (b) In sub-paragraph (c), after “1F”, insert “or 1G”.
- (7) In Schedule 1E—
 - (a) in sub-paragraph 5(3), in paragraph 7 of Schedule 1 (as substituted)—
 - (i) in sub-paragraph (1), before “this paragraph”, insert “Subject to sub-paragraph (1A)”; and
 - (ii) after sub-paragraph (1), insert—

“(1A) This paragraph does not apply in a case to which paragraph 7D, as modified by Schedule 1E, applies.”;
 - (b) for sub-paragraph (7), substitute—

“(7) (a) paragraphs 7A, 7B and 7C shall not apply;

(b) paragraph 7D shall have effect as if the references to “2010” were references to “2011”; and

(c) paragraph 7E shall not apply.”;
 - (c) renumber sub-paragraph (7) as sub-paragraph (4);
 - (d) renumber sub-paragraph (8) as sub-paragraph (5); and
 - (e) renumber sub-paragraph (9) as sub-paragraph (6).
- (8) After Schedule 1F, insert Schedule 1G as set out in the Schedule to these Regulations.

Amendment of the Non-Domestic Rating Contributions (England) Regulations 1992

3. For the financial year beginning on 1st April 2011, 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

Bob Neill

Parliamentary Under Secretary of State
Department for Communities and Local Government

7th July 2011

(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 1G

Regulation 7(1C)

Small Business Rate Relief: special provision in relation to the instalment scheme for 2012/13

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 2012.

(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 2013 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 2012 by dividing the first period amount by the number of instalments payable on or before 30th September 2012;

(b) the billing authority shall estimate the amount to be paid in any instalments payable on or after 1st October 2012 by dividing the second period amount by the number of instalments payable on or after 1st October 2012; 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 2012 and ending with 30th September 2012, 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 2012 and ending with 31st March 2013, 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 2012 but on or before 31st December 2012, 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 2012 and on or before 31st December 2012.

3. Where the demand notice is issued after 31st December 2012 and on or before 31st March 2013, Part I of Schedule 1 applies as if the reference in paragraph 2 to the relevant year was to the year 2013.

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 2012.

(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 2012—

- (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 2012 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 2012—

- (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 2012) 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 2012 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.”.

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

(5) 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).

(6) 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 2012.”

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, following changes to the level of Small Business Rate Relief between 1st October 2011 and 31st September 2012, for certain ratepayers who meet relevant conditions.

Regulation 2 and the Schedule amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 to allow for appropriate arrangements for the financial year of 2012 to 2013, so that the increased level of relief is apportioned to the correct part of the financial year.

Regulation 3 modifies the application of the Non-Domestic Rating Contributions (England) Regulations 1992, to allow authorities to amend their payments under these Regulations in the financial year 2011 to 2012.

© Crown copyright 2011

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.

2011 No. 1665

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) (No.2) Regulations 2011

£5.75