

1989 No. 2303

RATING AND VALUATION

**The Non-Domestic Rating (Miscellaneous Provisions)
(No. 2) Regulations 1989**

<i>Made</i> - - - -	<i>6th December 1989</i>
<i>Laid before Parliament</i>	<i>7th December 1989</i>
<i>Coming into force</i>	<i>28th December 1989</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 55(1), 64(3), 143(1) and (2) and 146(6) of and paragraph 2(8) and (9) of Schedule 6 to the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations shall be cited as the Non-Domestic Rating (Miscellaneous Provisions) (No. 2) Regulations 1989 and shall come into force on 28th December 1989.

(2) In these Regulations “the Act” means the Local Government Finance Act 1988.

Valuation on the contractor’s basis

2.—(1) This regulation applies in relation to a hereditament the rateable value of which is being ascertained by reference to the notional cost of constructing or providing it or any part of it.

(2) In applying paragraph 2(1) to (7) of Schedule 6 to the Act(b) in circumstances where this regulation applies, the appropriate rate shall be assumed—

- (a) in the case of an educational hereditament or hospital to be 4 per cent., and
- (b) in any other case, to be 6 per cent.

(3) In this regulation—

“the appropriate rate” means the percentage rate applicable in relation to the notional cost of constructing or providing the hereditament or any part of it for the purpose of estimating the rent at which it might reasonably be expected to let from year to year;

“educational hereditament” means a hereditament which—

- (a) is constructed or adapted for use for the purposes of—
 - (i) a school;
 - (ii) a university;

and which is wholly or mainly so used; or

(a) 1988 c.41. Section 55 is amended by paragraph 30 of, and paragraph 2(8) and (9) of Schedule 6 by paragraph 38(8) to (10) of, Schedule 5 to the Local Government and Housing Act 1989, (c.42).

(b) Paragraph 2(1) to (7) of Schedule 6 is amended by paragraph 38(3) to (7) of Schedule 5 to the Local Government and Housing Act 1989.

(b) is constructed or adapted for the provision of further education within the meaning of section 41 of the Education Act 1944(a) ("the 1944 Act") or higher education within the meaning of section 120(1) of the Education Reform Act 1988(b) ("the 1988 Act") or both, and is wholly or mainly used for the purposes of an institution which is—

- (i) maintained by a local education authority; or
- (ii) designated by or under regulations under section 218 of the 1988 Act as substantially dependent for its maintenance on assistance from local education authorities or on grants from the Secretary of State; or
- (iii) treated by virtue of section 132(6) of the 1988 Act as within the Polytechnics and Colleges Funding Council funding sector; or
- (iv) provided or maintained for that purpose by a body not established for profit;

"hospital" means a hereditament constructed or adapted wholly or mainly either—

(a) for the reception and treatment of persons suffering from any illness, injury or infirmity; or

(b) as a maternity home;

and used for such a purpose;

"school" has the meaning given by section 114(1) of the 1944 Act;

"university" has the meaning given by section 235(1) of the 1988 Act;

and any reference to a hereditament provided or used for any purpose includes a reference to a hereditament which is not in use but which when last in use was provided or used for such a purpose.

Valuation of public utilities

3. Notwithstanding any rule of law requiring the rateable value of a hereditament occupied by a public utility undertaking to be estimated solely by reference to the accounts, receipts or profits of the undertaking, in arriving at an amount under paragraph 2(1), (1A) or (1B) of Schedule 6 to the Act(c) in relation to such a hereditament, any evidence relevant to estimating the amount of rent in accordance with that provision is to be taken into account.

Advertising rights, etc.

4.—(1) In relation to an advertising hereditament, in applying the provisions of subparagraphs (1) to (7) of paragraph 2 of Schedule 6 to the Act it shall be assumed that the grant or reservation of the right of which the hereditament consists included the grant or reservation of a right to use any structure or sign for the time being available for use for the purpose of exhibiting advertisements by the occupier of that hereditament, notwithstanding that the structure or sign was provided by that occupier or was provided after the making of the grant or reservation concerned.

(2) In arriving at an amount of estimated rent under paragraph 2(1), (1A) or (1B) of Schedule 6 to the Act in respect of any land (within the meaning of section 64(2) of the Act) over which an advertising right is exercisable, no account shall be taken of any value or, as the case may be, increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right.

(3) Where any hereditament rateable in respect of its occupation for other purposes is used temporarily or permanently for, or for the erection thereon or attachment thereto of any structure used for, the exhibition of advertisements other than in pursuance of an advertising right, in arriving at an amount under paragraph 2(1), (1A) or (1B) of Schedule 6 in respect of that hereditament the increased value from that use of the hereditament shall be taken into account.

(a) 1944 c.31. Section 41 was substituted by section 120(2) of the Education Reform Act 1988.

(b) 1988 c.40.

(c) Paragraph 2(1A) and (1B) were inserted by paragraph 38(4) of Schedule 5 to the Local Government and Housing Act 1989.

(4) In this regulation—

“advertising hereditament” means a hereditament consisting of a right to which section 64(2) of the Act applies; and “advertising right” means a right which is such a hereditament, and

“structure” includes a hoarding, frame, post or wall.

Docks and harbours undertakings

5.—(1) This regulation applies to any hereditament which consists of or includes a dock or harbour undertaking carried on under authority conferred by or under any enactment, and in relation to which on the relevant day the conditions set out in paragraph (2) are satisfied.

(2) The conditions are—

(a) that the relevant income of the dock or harbour undertaking—

(i) in any accounting period of twelve months ending during the period beginning on 31st December 1987 and ending with 31st March 1988; or

(ii) if there was no such period, during the twelve months ending on 31st March 1988,

was £50,000 or more;

(b) that the persons carrying on the dock or harbour undertaking do not use the dock or harbour exclusively or mainly for the purpose of bringing or receiving goods—

(i) manufactured or produced by them; or

(ii) to be used by them for the manufacture or production of goods or electricity; or

(iii) to be sold by them; or

(iv) manufactured or produced by an associated body, and to be sold by that body;

(c) that the hereditament consists of or contains operational land.

(3) So much of any hereditament to which this regulation applies as consists exclusively of operational land shall be treated as a hereditament (“the new hereditament”) separate from the remainder.

(4) Where more than one new hereditament is on the relevant day occupied by the same undertakers, those hereditaments shall be treated as one hereditament, and as situated throughout the relevant period in the area of the charging authority in which is situated such of those new hereditaments as contains on the relevant day the larger or the largest area, measured at ground level.

(5) In this Regulation—

“accounting period”, in relation to a dock or harbour undertaking, means the period by reference to which the accounts relating to the undertaking are compiled;

“associated body”, in relation to any undertakers, means—

(a) a body corporate in relation to which those undertakers directly or indirectly own or control not less than 51 per cent. of its issued share capital; or

(b) a body corporate in relation to which those undertakers and any other associated body or bodies of theirs directly or indirectly own or control not less than 51 per cent. of its issued share capital;

“operational land” means land which is used for the purpose of the carrying on of the undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purpose of the carrying on of statutory undertakings within the meaning of the Town and Country Planning Act 1971(a);

“relevant day” means a day on which a local rating list must be compiled or, where a new hereditament would first fall to be shown in such a list for any day later than such a day, the day on which it would first so fall to be shown;

(a) 1971 c.78.

“relevant income” in relation to any dock or harbour undertaking means all income by way of revenue included or falling to be included in the revenue or profit and loss account of the undertaking, whether derived from the operations carried on under the authority referred to in paragraph (1) or otherwise, other than—

(a) income in respect of pilotage;

(b) income from—

(i) investments required to be shown in the accounts of the undertaking (other than investments in subsidiary companies);

(ii) loans or deposits; and

(iii) rent or other payments receivable in consideration of the grant of permission for occupation or use of any property of the undertaking, or right over such property, which is or forms part of a hereditament which is shown on a local rating list; and

(c) any sum receivable in respect of the disposal of land;

“relevant period” means the period beginning with the relevant day and ending when a new local rating list is compiled; and

“subsidiary” has the meaning given by section 736 of the Companies Act 1985(a).

Alteration of rating lists

6. Where a copy of a local or central rating list has been sent to a charging authority or Secretary of State under section 41(5) (local lists) or 52(5) (central lists) of the Act and the valuation officer alters the list before it comes into force—

(a) the officer shall inform the charging authority or Secretary of State to whom the copy was sent, and

(b) the authority or the Secretary of State, as the case may be, shall alter the deposited copy accordingly.

Valuation of mines and quarries

7. For regulation 5(3) (definitions) of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989(b) there shall be substituted—

“(3) In this regulation—

“land” does not include buildings, structures, roads, shafts, adits or other works;

any reference to a mine or quarry includes a reference to a well or bore-hole, or to a well and bore-hole combined; and

unless the context otherwise requires, expressions which are also used in the Mines and Quarries Act 1954 (c) have the same meanings as in that Act.”.

6th December 1989

Chris Patten
Secretary of State for the Environment

5th December 1989

Peter Walker
Secretary of State for Wales

(a) 1985 c.6.

(b) S.I. 1989/1060.

(c) 1954 c.70.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision about valuation and other matters in connection with non-domestic rating under Part III of the Local Government Finance Act 1988, which takes effect on 1st April 1990.

Regulation 2 relates to paragraph 2 of Schedule 6 to the Act, which requires the rateable value of a non-domestic hereditament to be ascertained by reference to the rent at which it is estimated that the hereditament might reasonably be expected to let from year to year. The regulation makes provision in relation to valuation by reference to the notional cost of constructing a hereditament ("the contractor's basis"), which is applied where there is no more direct evidence of rental value. It specifies the annual percentage rate to be applied in relation to the notional cost of construction. The rate is 4 per cent. in the case of certain education hereditaments, hospitals and maternity homes and 6 per cent. in other cases.

Regulation 3 provides that notwithstanding the rule of law (established in the case of *Kingston Union Assessment Committee v. Metropolitan Water Board*) that the rental value of a public utility undertaking is to be ascertained solely by reference to its accounts, receipts and profits, in ascertaining the rental value of such a hereditament any relevant evidence is to be taken into account.

Regulation 4 is concerned with the valuation of advertising rights. It makes provision comparable to that in section 28(1)(a) and (b), (4) and (5) of the General Rate Act 1967 (c.9).

Regulation 5 provides that in certain circumstances two or more hereditaments occupied by dock or harbour undertakers as operational land are to be treated as a single hereditament.

Regulation 6 deals with the alteration of rating lists before they come into force. Where a valuation officer notifies the charging authority or Secretary of State to whom a local or central list has been sent that he has altered the list, that authority or Secretary of State is to alter the deposited copy accordingly.

Regulation 7 amends the definitions in regulation 5 (valuation of mines and quarries) of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989 (S.I. 1989/1060) to make it clear that a reference to a mine or quarry includes a reference to a well or bore-hole.