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STATUTORY INSTRUMENTS

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**1990 No. 608**

**RATING AND VALUATION**

**The Non-Domestic Rating  
(Transitional Period) Regulations 1990**

<i>Made</i>	- - - -	<i>14th March 1990</i>
<i>Laid before Parliament</i>		<i>15th March 1990</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulation 17</i>		<i>16th March 1990</i>
<i>for all other purposes</i>		<i>31st March 1990</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 50, 63 and 143(1) and (2) of, and paragraphs 10 to 12 of Schedule 7A and paragraphs 1 and 2 of Schedule 9 to, the Local Government Finance Act 1988(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Transitional Period) Regulations 1990 and shall come into force for the purposes of regulation 17 on 16th March 1990, and for all other purposes on 31st March 1990.

(2) In these Regulations—

“the 1967 Act” means the General Rate Act 1967(2);

“the 1988 Act” means the Local Government Finance Act 1988;

“the 1989 Order” means the Non-Domestic Rating (Transitional Period) (Appropriate Fraction) Order 1989(3);

“the appropriate valuation officer”—

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(1) 1988 c. 41; relevant amendments were made by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraphs 40 and 44(2).

(2) 1967 c. 9.

(3) S.I.1989/2476.

- (a) with respect to a hereditament in relation to which regulations under section 53(1) of the 1988 Act<sup>(4)</sup> are not in force, means the valuation officer maintaining the local non-domestic rating list in which the hereditament is (or, as the context requires, would be) shown; or
- (b) with respect to a hereditament in relation to which such regulations are in force, means the central valuation officer;

“mine properties” has the same meaning as in the National Coal Board (Rateable Values) Order 1977<sup>(5)</sup>;

“old list” means a valuation list maintained under Part V of the 1967 Act;

“opencast land” means land used for the purpose of extracting coal by opencast operations; and

“Schedule 7A” means Schedule 7A to the 1988 Act.

(3) A hereditament is composite or all or a part of it is exempt or consists of domestic property on 31st March 1990 for the purposes of regulations 2(2) and 9(1) and (4)(a) if it would be shown as composite in a local non-domestic rating list, or (as the case may be) it or the part of it would be treated as exempt from local non-domestic rating or as consisting of domestic property, if such lists had to be compiled on that day.

#### **Determination of rateable value in special cases**

2.—(1) In this regulation “A” means A for the purposes of paragraph 4 of Schedule 7A.

(2) In a case where a hereditament is composite or a part of it is exempt on 31st March 1990, A is to be treated as the value, as certified by the appropriate valuation officer, which is equal to the relevant proportion of the rateable value determined for the hereditament under paragraph 6 of Schedule 7A, that is to say such proportion of that rateable value as would be reasonably attributable, as regards such part of the hereditament as is not exempt on 31st March 1990, to the non-domestic use of property, treating that use as the use which would have been assumed for the purposes of paragraph 2(1A) or (1B) of Schedule 6 to the 1988 Act<sup>(6)</sup> if a rateable value fell to be calculated for it under Part III of that Act for 31st March 1990.

(3) In a case where—

- (a) there has been a change in any of the factors by reference to which the value shown for a hereditament for 31st March 1990 in an old list was ascertained which would result in that value being affected if a notice of a proposal were given by a valuation officer on or before that day for the alteration of the list,
- (b) no such notice of a proposal is given (so that under section 79(1) of the 1967 Act no alteration under such a notice can have effect for that day), and
- (c) the appropriate valuation officer is satisfied that, if information relating to the change had been brought to the attention of the valuation officer maintaining the old list in sufficient time to have enabled him to make such a proposal, he would have done so,

A is to be treated as the value which would be determined under paragraph 6 of Schedule 7A if such a proposal had been made, as certified by the appropriate valuation officer.

(4) In a case where—

- (a) a hereditament is shown for 1st April 1990 in a non-domestic rating list but is not shown in an old list for 31st March 1990,

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<sup>(4)</sup> Section 53 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 29.

<sup>(5)</sup> S.I. 1977/2083.

<sup>(6)</sup> Paragraph 2(1A) and (1B) was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 38(4).

- (b) it would have been or would become so shown in an old list for 31st March 1990 if a notice of a proposal for the alteration of the list were given by a valuation officer on or before that day and if (where it is not in rateable occupation on that day) it were then in rateable occupation,
- (c) no such notice of a proposal is given, or (so far as is relevant) it is not in such rateable occupation (so that under section 79(1) or (2) of the 1967 Act no alteration under such a notice can have effect for that day), and
- (d) the appropriate valuation officer is satisfied that, if information relating to the hereditament had been brought to the attention of the valuation officer maintaining the old list in sufficient time to have enabled him to make such a proposal and if (so far as is relevant) it were then in rateable occupation, a proposal would have been made,

the hereditament is to be treated for the purposes of Schedule 7A and these Regulations as shown in an old list for 31st March 1990, and A is to be treated as the value which would be determined under paragraph 6 of that Schedule if such a proposal had been made and if (so far as is relevant) the hereditament were then in rateable occupation, as certified by the appropriate valuation officer.

(5) In a case where the quantity of minerals or other substances in or extracted from a hereditament, or the quantity of refuse or waste material which is brought onto and permanently deposited on a hereditament, is a matter which is relevant to and taken into account in the assessment of both its rateable value shown in a non-domestic rating list for 1st April 1990 (“the new value”) and of the rateable value determined under paragraph 6 of Schedule 7A (“the old value”), A is to be treated as the value certified by the appropriate valuation officer as the rateable value which would be determined under paragraph 6 of Schedule 7A if the quantity of minerals or other substances in the hereditament, the annual rate of extraction of minerals or other substances, or the annual rate of deposit of refuse or waste material (as the case may be), which fell to be taken into account in assessing the old value were the same as that taken into account in assessing the new value.

(6) In a case where on 31st March 1990 a hereditament comprises in whole or in part opencast land and is occupied by the British Coal Corporation, A is to be treated as the value certified by the appropriate valuation officer as the rateable value which would be determined under paragraph 6 of Schedule 7A if such part of that value as is attributable to coal in or extracted from the opencast land were found by multiplying the quantity of coal in tons extracted (or expected to be extracted) from the land which is taken into account in assessing the rateable value of the hereditament in a local non-domestic rating list for 1st April 1990 (expressed as an annual amount) by 12½p.

(7) In a case where on 31st March 1990 a hereditament comprises in whole or in part mine properties, does not contain opencast land and is occupied by the British Coal Corporation, paragraph 6 of Schedule 7A shall have effect as if the reference in sub-paragraph (2) of that paragraph to 15th February 1989 were a reference to 31st March 1990, and sub-paragraphs (3) to (9) of that paragraph were omitted.

(8) In a case where on 31st March 1990 the Docks and Harbours (Rateable Values) Order 1976(7) applies to a hereditament, A is to be treated as the rateable value shown for it for 15th February 1989 in an old list, or if that Order did not apply to it on that day, for the first day thereafter on which it did apply.

(9) Paragraph (5) does not apply to a hereditament where paragraph (7) applies to it, nor does it apply insofar as concerns coal in or extracted from opencast land occupied by the British Coal Corporation; and paragraphs (2) to (7) do not apply where paragraph (8) applies.

(10) Subject to paragraph (9), paragraphs (2) to (7) are, so far as the context permits, cumulative, so that—

- (a) in a case where more than one of the provisions contained in paragraphs (2) to (6) apply, a single certificate may be given which gives effect to all of the provisions which apply in that case; and
- (b) any certificate given under those paragraphs shall (in a case where paragraph (7) applies) have regard to paragraph (7).

(11) The proportion of rateable value which may be certified under paragraph (2) includes, if the circumstances so require, all of that value.

(12) The cases in which, for the purposes of paragraph (4)(a), a hereditament is to be treated as shown for 1st April 1990 in a non-domestic rating list but not shown in an old list for 31st March 1990 include a case where such an altered hereditament as is mentioned in section 79(2)(a) of the 1967 Act is shown as altered for 1st April 1990 in a non-domestic rating list but is not shown as altered in the old list for 31st March 1990.

### **Unoccupied property rating**

**3.—**(1) The amendments to section 45 of the 1988 Act made by this regulation shall apply in the case of a hereditament and a transitional day where paragraph 9 of Schedule 7A would apply to the hereditament for the day if the references to section 43 of the 1988 Act in paragraphs 7(1)(a) and 8(1)(a) of Schedule 7A were references to section 45 of that Act.

(2) The following subsections shall be substituted for subsections (4) and (5)–

“(4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated by–

- (a) finding the amount represented by  $(BL \times AF)$ , and
- (b) dividing that amount by 2.

(5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated by–

- (a) finding the amount represented by  $(BL \times AF)$ , and
- (b) dividing that amount by 10.”.

(3) The following subsections shall be inserted after subsection (6)–

“(6A) In a case where the hereditament is situated in the area of a special authority, a reference to  $(BL \times AF)$  is a reference to it adjusted by finding the appropriate amount and–

- (a) if the appropriate amount is positive, adding it to  $(BL \times AF)$ , or
- (b) if the appropriate amount is negative, subtracting the equivalent positive amount from  $(BL \times AF)$ .

(6B) For the purposes of subsection (6A) above the appropriate amount is the amount found by applying the formula

$$\frac{D \times (E - F)}{G}$$

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(4) For the purposes of section 45 of the 1988 Act as amended by this regulation BL, AF, D, E, F and G shall be constructed in accordance with paragraphs 7 and 8 of Schedule 7A (as they may be adjusted in any case pursuant to regulation 8 or 9).

## Central rating

4.—(1) A hereditament is a relevant hereditament with respect to a transitional day for the purposes of this regulation where paragraph 9 of Schedule 7A would apply to it for the day if—

- (a) for the words “a local non-domestic rating list, and a rateable value is shown in the list for the hereditament” in paragraph 2(3) of Schedule 7A there were substituted the words “a central non-domestic rating list, and a rateable value for it determined in accordance with paragraph 2, 2A or 2B of Schedule 6 above(8) is included in the aggregate value shown pursuant to section 53(3) above”;
- (b) the references to the rateable value shown for 1st April 1990 in the local non-domestic rating list in paragraphs 2(4), 3(2) and 5(3) and (4) of Schedule 7A and article 2(3) and (4) of the 1989 Order were references to the rateable value certified by the appropriate valuation officer as the rateable value which would be shown in a local non-domestic list for the hereditament for 1st April 1990 if regulations under section 53(1) of the 1988 Act were not in force in relation to it;
- (c) the references to section 43 of the 1988 Act in paragraphs 7(1)(a) and 8(1)(a) of Schedule 7A were references to section 54 of that Act; and
- (d) paragraphs 3(4), 7(2) and (3) and 8(2) and (3) of Schedule 7A (together with the reference to paragraph 3(4) in paragraph 3(3) of that Schedule) were omitted.

(2) The amendments to section 54 of the 1988 Act made by paragraph (3) shall apply to the calculation of the chargeable amount for a transitional day in any case where the aggregate rateable value shown pursuant to section 53(3) of that Act by reference to which that amount is (or but for the amendments would be) calculated for the day includes an amount in respect of a relevant hereditament.

(3) The following subsections shall be substituted for subsections (4) and (5)—

“(4) The chargeable amount for a chargeable day shall be calculated in accordance with the formula—

$$\frac{A \times B}{C} + H.$$

(5) A is the portion of the rateable value shown for the day in the list against the ratepayer’s name which is not attributable to relevant hereditaments, as that portion is certified by the central valuation officer.

(5A) H is the aggregate for the day of the amounts represented by  $(BL \times AF)$  for every relevant hereditament for which a value is included in the rateable value so shown.”.

(4) For the purposes of section 54 of the 1988 Act as amended by this regulation—

- (a) references to BL and AF are to be construed in accordance with paragraphs 7 and 8 of Schedule 7A as they would have effect under the modifications made by paragraph (1) (and as they may be adjusted in any case pursuant to regulation 8 or 9), and
- (b) references to a relevant hereditament shall be construed in accordance with paragraph (1).

(5) Regulations 6 to 9 have effect, as regards the operation of this regulation in relation to a relevant hereditament, as if regulations under section 53(1) of the 1988 Act were not in force in relation to an appropriate hereditament, and an appropriate hereditament fell to be shown in a local non-domestic rating list (“the relevant assumptions”); and without prejudice to the foregoing, for that purpose references in regulations 6 to 9 to a hereditament shown, or a rateable value shown, in a local non-domestic rating list for a day, or to entries made in such a list, or to other amounts or

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(8) Paragraph 2 was amended and paragraphs 2A and 2B were inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 38.

matters which would fall to be calculated by reference to or depend on such a value or entry, shall be construed as including references to hereditaments or rateable values which would be shown in such a list, or to entries which would be made, or to amounts or matters which would be calculated by reference to or would depend on such a value or entry, on the relevant assumptions.

(6) The appropriate valuation officer shall certify any rateable values necessary for the purposes of paragraph (5).

(7) Appropriate hereditaments are to be treated as a single hereditament for the purposes of the provisions of Schedule 7A as applied by (and section 54 of the 1988 Act as amended by) this regulation if they would be so treated by virtue of regulation 6(2) of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989<sup>(9)</sup> were they to fall to be shown in a local non-domestic rating list; so that (amongst other matters) regulation 9(1) and (insofar as the context permits) references to a hereditament in those provisions shall have effect accordingly.

(8) A hereditament is an appropriate hereditament for the purposes of paragraphs (5) and (7) if it is shown in a central non-domestic rating list and a rateable value for it determined in accordance with paragraph 2, 2A or 2B of Schedule 6 to the 1988 Act is included in an aggregate value shown pursuant to section 53(3) of that Act.

#### **Rating transition: further provision**

5.—(1) A hereditament is not a defined hereditament as regards a day for the purposes of Schedule 7A if its rateable value for the day falls to be determined under the Electricity Generators (Rateable Values) Order 1989<sup>(10)</sup>.

(2) For the purposes of determining whether paragraph 9 of Schedule 7A applies (or pursuant to regulations 3(1) or 4(1) would apply) to a hereditament for a transitional day, the circumstances in which the paragraph is to be treated as applying to a hereditament for a preceding day by virtue of paragraph 7 or 8 of that Schedule as described in sub-paragraph (1)(e) of those paragraphs include regulation 3 applying to the hereditament for that preceding day, or the hereditament being a relevant hereditament for the purposes of regulation 4 for that preceding day, by virtue of paragraph 7 or 8 of that Schedule (as the case may be) as modified in effect by regulations 3 and 4.

#### **Changes in hereditaments: general**

6.—(1) Schedule 7A is to be treated as applying (and continuing to apply) notwithstanding that works are carried out on a hereditament, or the extent of a hereditament is reduced or increased (whether by split or merger or otherwise); but—

- (a) without prejudice to the generality of regulation 7, insofar as such an event causes the rateable value shown for the hereditament in a local non-domestic rating list to be altered, that regulation applies;
- (b) where a hereditament splits or a merged hereditament arises, this paragraph has effect subject to regulations 8 and 9; and
- (c) paragraphs (4) and (5) below deal with the application of paragraphs 2(2), (3) and (5), 7(1)(e) and 8(1)(e) of Schedule 7A to cases where such an event occurs.

(2) For the purposes of this regulation and regulations 8 and 9 a hereditament splits if it is shown in an old list or in a local non-domestic rating list and on or after 1st April 1990 it becomes (or becomes incorporated within) more than one hereditament.

(3) For the purposes of this regulation and regulations 8 and 9 a merged hereditament arises if on or after 1st April 1990 it becomes comprised of or incorporates two or more parts which,

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<sup>(9)</sup> S.I. 1989/1060.

<sup>(10)</sup> S.I. 1989/2474.

immediately before the merger, were separate hereditaments (or parts of separate hereditaments), being separate hereditaments (or parts of separate hereditaments) shown in an old list or in a local non-domestic rating list.

- (4) Where a merged hereditament arises, or the extent of a hereditament is increased—
- (a) the first condition mentioned in paragraph 2(2) of Schedule 7A is to be treated as fulfilled in relation to the merged or increased hereditament if it was fulfilled (or treated as fulfilled) in relation to any hereditament incorporated wholly or partly in the merged hereditament, or (as the case may be) in relation to any part of the increased hereditament;
  - (b) the second condition mentioned in paragraph 2(3) of Schedule 7A is to be treated as fulfilled in relation to the merged or increased hereditament as regards the period before the day on which the merger or increase took place or, if different, on which any entry or alteration in a local non-domestic rating list in relation to the merger or increase has effect, if it was fulfilled (or treated as fulfilled) with respect to that period in relation to any hereditament incorporated wholly or partly in the merged hereditament, or (as the case may be) in relation to any part of the increased hereditament;
  - (c) a person who is a qualifying individual in relation to the merged or increased hereditament is to be treated as a person to whom paragraph 2(6) or (7) of Schedule 7A applies in relation to the merged or increased hereditament as regards the period before the merger or increase took place if he was such a person (or treated as such a person) with respect to that period in relation to any hereditament incorporated wholly or partly in the merged hereditament, or (as the case may be) in relation to the increased hereditament as it existed before the increase; and
  - (d) paragraph 7(1)(e) or 8(1)(e) of Schedule 7A is to be treated as satisfied in relation to the merged or increased hereditament as regards the period before the day on which the merger or increase took place or, if different, on which any entry or alteration in a local non-domestic rating list in relation to the merger or increase has effect, if it was satisfied (or treated as satisfied) with respect to that period in relation to any hereditament incorporated wholly or partly in the merged hereditament, or (as the case may be) in relation to any part of the increased hereditament.
- (5) Without prejudice to paragraph (4), where a hereditament splits, or the extent of a hereditament is reduced—
- (a) the first condition mentioned in paragraph 2(2) of Schedule 7A is to be treated as fulfilled in relation to the parts into which it split or the reduced hereditament if it was fulfilled (or treated as fulfilled) in relation to the hereditament which split or (as the case may be) in relation to the hereditament whose extent was reduced;
  - (b) the second condition mentioned in paragraph 2(3) of Schedule 7A is to be treated as fulfilled in relation to the parts into which it split or the reduced hereditament as regards the period before the day on which the split or reduction took place or, if different, on which any entry or alteration in a local non-domestic rating list in relation to the split or reduction has effect, if it was fulfilled (or treated as fulfilled) with respect to that period in relation to the hereditament which split or (as the case may be) in relation to the hereditament whose extent was reduced;
  - (c) a person who is a qualifying individual in relation to a part into which the hereditament splits or the reduced hereditament is to be treated as a person to whom paragraph 2(6) or (7) of Schedule 7A applies in relation to the part or reduced hereditament as regards the period before the split or reduction took place if he was such a person (or treated as such a person) with respect to that period in relation to the hereditament which split or (as the case may be) in relation to the reduced hereditament as it existed before the reduction; and

- (d) paragraph 7(1)(e) or 8(1)(e) of Schedule 7A is to be treated as satisfied in relation to the parts into which it split or the reduced hereditament as regards the period before the day on which the split or reduction took place or, if different, on which any entry or alteration in a local non-domestic rating list in relation to the split or reduction has effect, if it was satisfied (or treated as satisfied) with respect to that period in relation to the hereditament which split or (as the case may be) in relation to the hereditament whose extent was reduced.

### Changes in rateable values

7.—(1) Paragraph (2) applies where for a day after 1st April 1990 the rateable value shown in a local non-domestic rating list for a hereditament is greater than that shown for it for 1st April 1990.

(2) Where this paragraph applies, section 43, 45 or 54 (as the case may be) of the 1988 Act, as amended in any case by paragraph 9 of Schedule 7A or regulation 3 or 4, shall have effect as regards that hereditament for the day as if the references to  $(BL \times AF)$  were references to

$$(BL \times AF) + \frac{(N - J) \times B}{C}$$

(3) Paragraph (4) applies where for a day after 1st April 1990 the rateable value shown in a local non-domestic rating list for a hereditament is less than that shown for it for 1st April 1990.

(4) Where this paragraph applies, section 43, 45 or 54 (as the case may be) of the 1988 Act, as amended in any case by paragraph 9 of Schedule 7A or regulation 3 or 4, shall have effect as regards that hereditament for the day as if—

- (a) the references to  $(BL \times AF)$  were references to

$$(BL \times AF) \times \frac{N}{J}$$

; and

- (b) as regards section 43 or 45, the references to

$$\frac{D \times (E - F)}{G}$$

were references to

$$\frac{N \times (E - F)}{G}$$

- (5) For the purposes of the substitute provisions mentioned in paragraphs (2) and (4)—

B is the non-domestic rating multiplier for the financial year in which the day falls (or, where the charging authority concerned is a special authority, the authority's non-domestic rating multiplier for that year);

C is the number of days in that year;

J is the rateable value shown for the hereditament for 1st April 1990 in a local non-domestic rating list; and

N is the rateable value shown for the hereditament for the day in a local non-domestic rating list.

(6) In a case where any of the circumstances regarding a relevant factor taken into account in determining the rateable value shown for a hereditament for 1st April 1990 in a local non-domestic rating list are different to those existing on 31st March 1990, so that the value so shown is different to that which would have been shown if the circumstances regarding that factor existing on 31st March 1990 continued to exist on 1st April 1990, the references in paragraphs (1), (3) and (5) to its rateable value shown for 1st April 1990 shall be treated as references to the value which would have been shown for that day if that value fell to be determined as regards that factor by reference to the circumstances existing on 31st March 1990, as certified by the appropriate valuation officer; and the references in paragraphs (1) and (3) to its rateable value for a day after 1st April 1990 shall be treated as including a reference to its rateable value actually shown for 1st April 1990.

(7) References in paragraph (6) to a relevant factor are references to—

- (a) such a matter as is mentioned in paragraph 2(7) of Schedule 6 to the 1988 Act, or
- (b) the extent to which a hereditament is (or, if Part III of the 1988 Act applied in relation to 31st March 1990, would be) exempt from local non-domestic rating;

save that (as regards sub-paragraph (a)) they do not include references to a matter mentioned in paragraph 2(7)(c) or (cc) of that Schedule<sup>(11)</sup> insofar as regulation 2(5), (6) or (7) applies in relation to the hereditament concerned.

### **Splits and mergers: adjustment of relevant amounts**

8.—(1) This regulation has effect subject to regulation 9.

(2) Where a hereditament (“old hereditament”) splits, and the entries in a local non-domestic rating list made with respect to the split do not show for the day on which they first have effect (in paragraph (3) referred to as “the relevant day”) any part into which it splits as being incorporated with effect from the same day within a merged hereditament, each relevant amount for a hereditament arising from the split (“new hereditament”) shall be treated on and after that day as equal to the relevant amount in question for the old hereditament, multiplied by the factor

$$\frac{N}{S}$$

(3) In paragraph (2)—

N is the rateable value shown in a local non-domestic rating list for the new hereditament for the relevant day;

S is the sum of the rateable values so shown for all of the new hereditaments arising from the split.

(4) Where a merged hereditament (“new hereditament”) arises and the entry in a local non-domestic rating list made with respect to it does not show that any part of it is composed of a part of a hereditament which split with effect from the same day as that on which the entry with respect to the merger first has effect, each relevant amount for the new hereditament shall be treated on and after that day as equal to the sum of the relevant amounts in question for all of the qualifying hereditaments of which the new hereditament is composed.

(5) Where an entry in a local non-domestic rating list made with respect to a split shows for the day on which that entry first has effect one or more of the parts into which a hereditament splits as becoming incorporated with effect from the same day within a merged hereditament (whether in consequence of a boundary adjustment or otherwise), each relevant amount for a hereditament arising from the split or merger (“new hereditament”) shall be treated on and after that day as equal

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<sup>(11)</sup> Paragraph 2(7)(cc) was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 38(7).

to the sum of the relevant amounts in question for all of the qualifying hereditaments, or parts of qualifying hereditaments, of which the new hereditament is composed.

(6) A hereditament (“the hereditament in question”) is a qualifying hereditament in relation to a new hereditament for the purposes of paragraphs (4) and (5) if–

- (a) it was a defined hereditament as regards the day (“the appropriate day”) before that on which the split or merger concerned took place; and
- (b) where it was a hereditament falling within paragraph 2(8) of Schedule 7A, it would have been a defined hereditament as regards the appropriate day were the person who, immediately after the split or merger took place, was the occupier of all or part of the new hereditament concerned, or (if none of the new hereditament was occupied) the owner of that hereditament, to have been the qualifying person for the purposes of paragraph 2(5) of that Schedule in relation to the hereditament in question on the appropriate day.

(7) Where only part of a qualifying hereditament in relation to a new hereditament is comprised in the new hereditament, for the purposes of paragraph (5) each relevant amount for the part is to be treated as equal to the relevant amount in question for the qualifying hereditament, multiplied by the factor

$$\frac{K}{L}$$

for the part.

(8) In paragraph (7)–

K is the value, as certified by the appropriate valuation officer, which is equal to such proportion of the rateable value of the qualifying hereditament shown in a local non-domestic rating list for the appropriate day as is reasonably attributable to the part; and

L is the rateable value of the qualifying hereditament shown in a local non-domestic rating list for the appropriate day.

(9) The relevant amounts referred to in this regulation are the base liability for the purposes of Schedule 7A, the rateable value shown for 1st April 1990 mentioned in paragraphs 2(4), 3(2), 5(3) and (4), 7(4)(d) and 8(4)(d) of that Schedule and in article 2(3) or (4) of the 1989 Order, and the rateable value shown for 1st April 1990 (or, as the case may be, certified under regulation 7(6)) mentioned in or having effect for the purposes of regulation 7(1), (3) and (5).

(10) The adjustment of base liability under paragraphs (2), (4) and (5) is without prejudice to the continuing application to it of the appropriate fraction in accordance with paragraph 4(5) of Schedule 7A.

(11) The product arrived at by multiplying a rateable value (or an amount certified under regulation 7(6)) by a factor pursuant to paragraph (2) or (7) shall be rounded to a multiple of a pound in accordance with paragraph 2(2) of Schedule 6 to the 1988 Act.

### **Splits and mergers: further provision**

9.—(1) In a case where two or more hereditaments shown in an old list for 31st March 1990 (“the old hereditaments”) comprise a single hereditament on 1st April 1990 by reason only of regulation 6(2) of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, regulation 8 does not apply with respect to that merger; but–

- (a) the base liability for each day in the financial year beginning in 1990 for the single hereditament is (subject to regulation 8 in the event of any subsequent split or merger) to be treated as the sum of the base liabilities for each of the old hereditaments determined under paragraph 4(1) of Schedule 7A (as may be modified in any case pursuant to regulation 2), and

- (b) the base liability for each day in a later financial year shall be calculated from the base liability found for the single hereditament under sub-paragraph (a) in accordance with paragraph 4(5) of that Schedule (subject to regulation 8 as aforementioned);

provided that where on 31st March 1990 there is an old hereditament all of which is (disregarding any part which is exempt) domestic property, its base liability determined under paragraph 4(1) of Schedule 7A is to be treated for the purposes of sub-paragraph (a) as 0.

(2) In a case where a split or merger occurs on 1st April 1990 and is shown in a local non-domestic rating list for that day and (in the case of a merger) paragraph (1) does not apply—

- (a) references to the rateable value shown for 1st April 1990 mentioned in paragraphs 2(4), 3(2), 5(3) and (4), 7(4)(d) and 8(4)(d) of Schedule 7A, in article 2(3) and (4) of the 1989 Order and in regulation 7(1), (3) and (5) (“the appropriate amounts”) shall be treated as references to amounts found for each new hereditament so shown arising from the split or merger by—

- (i) taking values, as certified by the appropriate valuation officer, equal to the appropriate amounts which would have existed for the hereditament or hereditaments which split or for the hereditaments all or part of which comprise the merged hereditament if the circumstances existing on 31st March 1990 continued to exist on 1st April 1990; and

- (ii) calculating the appropriate amounts for the new hereditaments in accordance with regulation 8(2), (4) or (5) (as the case may be) from the values certified under paragraph (i);

- (b) the base liability for a new hereditament shall be determined in accordance with regulation 8; and

- (c) references in regulation 7(1) and (3) to the rateable value for a day after 1st April 1990 shall be treated as regards a new hereditament as including a reference to its rateable value actually shown for 1st April 1990.

(3) For the purposes of regulation 8(4) and (5) as applied by paragraph (2)(a)(ii) or (b) above, every hereditament (“old hereditament”) all or part of which is comprised in a new hereditament is to be treated (in relation to the new hereditament) as a qualifying hereditament if the conditions in paragraph (4)(a) and (so far as applicable) (4)(b) below are satisfied with respect to it.

(4) The conditions are—

- (a) that on 31st March 1990 all or part of the old hereditament is neither domestic property nor exempt; and

- (b) where the old hereditament would have been a hereditament falling within paragraph 2(8) of Schedule 7A if the split or merger were not to have taken place on 1st April 1990, that the condition mentioned in paragraph 2(5) of that Schedule would have been fulfilled on that assumption as regards that day in relation to the old hereditament were the person who, immediately after the split or merger in fact took place, was the occupier of all or part of the new hereditament, or (if none of the new hereditament was occupied) the owner of that hereditament, to have been the qualifying person in relation to the old hereditament on that day.

(5) In determining under paragraph (4)(b) whether a hereditament is one which would fall within paragraph 2(8) of Schedule 7A were the split or merger not to have taken place, the rateable value which would have been shown for it for 1st April 1990 in a local non-domestic rating list shall be treated as such value as is certified for it by the appropriate valuation officer pursuant to paragraph (2)(a)(i) above.

(6) Insofar as, for the purposes of regulation 8(5) as applied by paragraph (2)(a)(ii) or (b) above, regulation 8(7) has effect in relation to a hereditament treated as a qualifying hereditament

under paragraph (3), references in regulation 8(8) to its rateable value shown for the appropriate day are references to such value as is certified for it by the appropriate valuation officer pursuant to paragraph (2)(a)(i) above (and references to a proportion of that value are to be construed accordingly).

### **Joint owners and occupiers**

**10.**—(1) References in paragraph 2(6), (7) and (9) of Schedule 7A and regulation 8(6)(b) and 9(4)(b) to a person occupying, or being the owner of, a hereditament or part of a hereditament, include references to a person jointly occupying, or (as the case may be) entitled with another to possession of, the hereditament or part.

(2) Where such a joint owner or occupier is a qualifying person in relation to a hereditament as regards a transitional day and is also a person to whom paragraph 2(6) or (7) of Schedule 7A applies, the hereditament is to be treated as a defined hereditament notwithstanding that, at the time he was in joint occupation or ownership for the purposes of those provisions, the identity of any of the other joint owners or occupiers changed.

### **Statutory transfers of hereditaments**

**11.**—(1) This regulation applies where—

- (a) a hereditament which is vested in a local authority (“a transferor”) vests in another local authority in consequence of any transfer or reorganisation of the functions of local authorities or any change in local authority boundaries, or
- (b) a hereditament which is vested in or occupied by a former governing body within the meaning of section 74 of the Education Reform Act 1988<sup>(12)</sup> or a local authority (“a transferor”) vests in the governing body of a grant-maintained school under that section.

(2) Where this regulation applies, in the application of Schedule 7A after the transfer any period during which a transferor occupied all or part of the hereditament or owned it shall, for the purposes of paragraph 2(5) to (9) of that Schedule, be treated as a period during which the other local authority mentioned in paragraph (1)(a) or governing body of a grant-maintained school mentioned in paragraph (1)(b) occupied all or part of it or owned it (as the case may be).

(3) In this regulation “local authority” means a local authority within the meaning of the Local Government Act 1972<sup>(13)</sup>, the Inner London Education Authority, the Common Council, the Council of the Isles of Scilly and a residuary body within the meaning of the Local Government Act 1985<sup>(14)</sup>; and references to the governing body of a grant-maintained school include references (so far as relevant) to its first governors.

### **General rate poundage**

**12.**—(1) Paragraph (2) applies where a general rate poundage effective for 31st March 1990 for a hereditament includes an amount per pound attributable to such an additional item as is mentioned in section 2(4)(a) of the 1967 Act arising from—

- (a) a precept issued by a parish council, a chairman of a parish meeting, or a community council,
- (b) the expenses of a community meeting, or
- (c) police functions.

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<sup>(12)</sup> 1988 c. 40.

<sup>(13)</sup> 1972 c. 70.

<sup>(14)</sup> 1985 c. 51; see section 105(1).

(2) Where this paragraph applies, amount B in paragraph 4(3) of Schedule 7A in respect of the hereditament shall be treated as including the amount per pound attributable to the additional item.

(3) The reference in paragraph 4(3) of Schedule 7A to the general rate poundage effective for 31st March 1990 for the rating area (within the meaning of the 1967 Act) in which a hereditament is situated shall be treated as a reference—

- (a) in the case of a hereditament situated in the City of London (but not in the Inner or Middle Temples), as a reference to the sum of the rate poundages of the general rate and poor rate of the Common Council effective for 31st March 1990 for the hereditament; and
- (b) in the case of a hereditament situated in the Inner or Middle Temples, as a reference to the rate poundage of any rate in the nature of a general rate levied in the Inner or Middle Temple (as the case may be) effective for 31st March 1990 for the hereditament.

### **Partly occupied hereditaments**

**13.**—(1) As regards a transitional day and a hereditament in relation to which an apportionment under section 44A of the 1988 Act<sup>(15)</sup> is applicable, any chargeable amount for the day and the hereditament found pursuant to the amendments made by paragraph 9 of Schedule 7A shall be treated as multiplied by the factor

$$\frac{A}{P}$$

(2) In paragraph (1)—

A is amount A found under section 44(2) of the 1988 Act as substituted by section 44A(7) or (9) (as the case may be) for the transitional day as regards the hereditament, and

P is the rateable value shown under section 42(4) of the 1988 Act<sup>(16)</sup> for the transitional day as regards the hereditament.

### **Contributions in aid: further provision**

**14.**—(1) In the case of a hereditament—

- (a) to which paragraph 6(8) of Schedule 7A does not apply, and
- (b) in respect of which a contribution is made under section 38 of the 1967 Act, or partly under section 37 and partly under section 38, in aid of rates for the period beginning with 15th February 1989 and ending with 31st March 1990,

references in paragraph 6(2) to (6) of Schedule 7A to rateable value are to value representing rateable value (which is required to be shown by those sections).

(2) In a case where—

- (a) the Crown would (ignoring any rules as to Crown exemption) be rateable for only part of the period beginning with 15th February 1989 and ending with 31st March 1990 in respect of a hereditament, and
- (b) there is no day falling after the relevant day for which a rateable value is shown in an old list as a result of a relevant proposal within the meaning of paragraph 6 of Schedule 7A,

for the purposes of paragraph 6(8) of that Schedule and paragraph (1) above a contribution is to be treated as made for that period in respect of the hereditament if it is made for the part during which the Crown would be rateable in respect of it but for those rules.

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<sup>(15)</sup> Section 44A was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraph 22.

<sup>(16)</sup> Section 42(4) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 20.

(3) In paragraph (2) the relevant day is the last day in the period beginning with 15th February 1989 and ending with 31st March 1990 on which the Crown would be rateable in respect of the hereditament but for the rules as to Crown exemption.

### **Hereditaments losing Crown exemption**

**15.**—(1) This regulation applies where a hereditament to which paragraph 6(8) of Schedule 7A or regulation 14(1) applies becomes subject to rating under Part III of the 1988 Act on or after 1st April 1990 (whether by virtue of section 64(6) of the 1988 Act or otherwise).

(2) Where this regulation applies, in the application of Schedule 7A on and after the day (“the relevant day”) on which the hereditament becomes so subject—

- (a) references in Schedule 7A and these Regulations to a hereditament being shown in an old list, or to a value shown or an entry made (or not shown or not made) in such a list in respect of it, shall be construed as including references to a hereditament being shown, and the value shown or entry made (or, as the case may be, not shown or not made) in the list pursuant to section 37 or 38 of the 1967 Act,
- (b) any day for which, but for any rules as to Crown exemption from rating applying to the hereditament, the hereditament might have been shown in a local non-domestic rating list shall be treated as a day on which it was so shown,
- (c) the rateable value which is to be treated as being the value shown in the list for such a day shall, insofar as it is material to the operation of Schedule 7A and these Regulations on or after the relevant day, be such value as is certified by the appropriate valuation officer, and
- (d) any value which would have been certified by the appropriate valuation officer under these Regulations but for the exemption shall, insofar as it is material as mentioned in subparagraph (c), be treated as such value as is certified by the appropriate valuation officer.

### **Proposals as to rateable values in old lists**

**16.**—(1) This regulation applies to a relevant notice where at the time that it is issued in respect of a hereditament a proposal for the alteration of an old list insofar as concerns its rateable value has been made, that proposal would (if the list were altered pursuant to it) be relevant to the amount to be demanded under the notice in consequence of Schedule 7A or these Regulations, and either—

- (a) every person who might object to the proposal has not objected but the period for making those objections has not passed, or
- (b) any objection made with respect to the proposal is outstanding, that is to say—
  - (i) any such objection has not been withdrawn,
  - (ii) no alteration has been made under section 72 of the 1967 Act in consequence of the proposal, and
  - (iii) an appeal to a valuation and community charge tribunal in connection with the proposal, or an arbitration in connection with it, has not been finally determined.

(2) An appeal to a valuation and community charge tribunal is finally determined for the purposes of paragraph (1)(b)(iii) if—

- (a) the tribunal has decided the appeal, and either the period within which an appeal may be made to the Lands Tribunal under section 77 of the 1967 Act<sup>(17)</sup> against that decision (“the relevant decision”) has expired without such an appeal being made, or each person who may so appeal has notified the other parties that he does not propose to do so, or

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(17) Section 77 was amended by S.I. 1989/440, Schedule 2.

(b) the Lands Tribunal has determined any appeal made under section 77 of the 1967 Act in relation to the relevant decision.

(3) Where this regulation applies to a notice, any estimate or other calculation of the amount payable by way of non-domestic rates for the financial year (or part) to which the notice relates and which is made for the purposes of the notice may be made on the assumption or basis that the list will fall to be altered in accordance with the proposal.

(4) A relevant notice is a notice given under Parts II to IV of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(18) (“the local lists Regulations”) or under regulations 4 to 9 of the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989(19) (“the central lists Regulations”).

(5) If a notice is issued to which this regulation applies and, upon any objection ceasing to be outstanding for the purposes of paragraph (1)(b), any assumption as to the proposal upon which the notice was issued is shown to be false, the liabilities of the ratepayer and of the charging authority or Secretary of State (as the case may be) shall be adjusted by the charging authority or Secretary of State requiring further payments, or making repayments, under the provisions of regulation 8, 9 or 24 of or paragraph 7 of Schedule 1 to the local lists Regulations, or regulation 8 or 9 of or paragraph 7 of the Schedule to the central lists Regulations, as the circumstances require.

### **Contents of demand notices**

17.—(1) Paragraph 5 of Schedule 2 to the Community Charges and Non-Domestic Rating (Demand Notices) (England) Regulations 1990(20), paragraph 5 of Schedule 2 to the Community Charges and Non-Domestic Rating (Demand Notices) (City of London) Regulations 1990(21) and paragraph 6 of Schedule 3 to the Community Charges and Non-Domestic Rating (Demand Notices) (Wales) Regulations 1990(22) are amended in accordance with this regulation.

(2) In sub-paragraph (b) of those paragraphs—

(a) after the words “section 43(4) or (5)” there are inserted the words “or 45(4) or (5)”; and

(b) at the end there are inserted the words “or by regulation 3 of the Non-Domestic Rating (Transitional Period) Regulations 1990”.

(3) Immediately before the words “applied to the calculation” in those paragraphs there are inserted the words “without modification,”.

### **Certificates**

18.—(1) The appropriate valuation officer (and as regards the amendments made by regulation 4(3) in any case, the central valuation officer) shall certify the values which fall to be certified by him under these Regulations as soon as practicable after the circumstances calling for the certification come to his attention (whether by virtue of an application by the charging authority, the Secretary of State or ratepayer concerned or otherwise).

(2) The valuation officer certifying a value pursuant to these Regulations shall send a copy of the certification to—

(a) the charging authority concerned or (insofar as it relates to a liability under section 54 of the 1988 Act) the Secretary of State; and

(b) if the certification is made in consequence of an application by the ratepayer concerned, that ratepayer.

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(18) S.I. 1989/1058, amended by S.I. 1990/145.

(19) S.I. 1989/2260.

(20) S.I. 1990/156, amended by S.I. 1990/366.

(21) S.I. 1990/369.

(22) S.I. 1990/293.

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(3) The valuation officer certifying a value pursuant to these Regulations shall retain the certification; and a person may at any reasonable time inspect it.

14th March 1990

*Chris Patten*  
Secretary of State for the Environment

14th March 1990

*Peter Walker*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make supplementary provision with respect to Schedule 7A of the Local Government Finance Act 1988 regarding the transition between general rates under the General Rate Act 1967 (insofar as concerns business property) and non-domestic rates under Part III of the 1988 Act.

Regulation 2 makes provision for the adjustment of rateable values determined under the 1967 Act for the purposes of transition in special cases, including cases where a property is partly domestic and partly non-domestic.

Regulation 3 applies Schedule 7A to the rating of unoccupied property, and regulation 4 applies the Schedule to certain centrally rated property.

Regulation 5 disapplies Schedule 7A from certain electricity generating hereditaments for which transitional arrangements are made under the Electricity Generators (Rateable Values) Order 1989, and makes provision consequential on the application of the Schedule to unoccupied and centrally rated property.

Regulations 6 to 9 make provision for the application of Schedule 7A where the rateable value of a hereditament changes, or a hereditament splits, or merges with other hereditaments.

Regulations 10 to 16 make provision for joint owners and occupiers, provide that certain statutory transfers of local authority and related property shall not affect the operation of Schedule 7A, adjust the calculation of the base liability of a hereditament where its rate bill for 1989/90 included an element in respect of certain additional items of the general rate, and adjust a transitional bill where a hereditament is temporarily partly unoccupied. They also make further provision in respect of hereditaments which have the benefit of Crown exemption or lose Crown exemption, and provide that where proposals for the alteration of lists under the 1967 Act with respect to rateable values remain outstanding transitional rate bills may be calculated on the basis that the lists will be altered in accordance with the proposals.

Regulation 17 provides for information about transition in connection with unoccupied property to be contained in rate demand notices, and regulation 18 provides for appropriate certificates as to rateable values to be issued by valuation officers, and for their retention and inspection.