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## STATUTORY INSTRUMENTS

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**1993 No. 774**

# RATING AND VALUATION

## The Non-Domestic Rating (Collection and Enforcement) (Amendment and Miscellaneous Provision) Regulations 1993

<i>Made</i>	- - - -	<i>17th March 1993</i>
<i>Laid before Parliament</i>		<i>17th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</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, 143(1) and (2) and 146(6) of, and paragraphs 1 and 3(3) of Schedule 9 to, the Local Government Finance Act 1988<sup>(1)</sup>, 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 (Collection and Enforcement) (Amendment and Miscellaneous Provision) Regulations 1993 and shall come into force on 1st April 1993.

(2) In these Regulations, “the principal Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989<sup>(2)</sup>.

### Application of Regulations

2.—(1) The amendments made by regulation 3(a) do not affect the validity of a rate demand notice issued before 1st April 1993.

(2) In paragraph (1), “rate demand notice” means a demand notice within the meaning of Part II of the principal Regulations.

(3) The amendments made by regulations 3(b) and (c) and 4 have effect in relation to a levy of, or attempt to levy, distress made on or after 1st April 1993 under regulation 14 of the principal Regulations.

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(1) [1988 c. 41](#). Paragraph 3 of Schedule 9 was amended by paragraph 87(2) of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(2) [S.I. 1989/1058](#), to which there are amendments not relevant to these Regulations.

### Amendment of the principal Regulations

3. The principal Regulations shall be amended—
- (a) in regulation 5 (service of demand notices)—
    - (i) in paragraph (2), by the substitution for the words “A demand notice” of the words “Subject to paragraph (3), a demand notice”; and
    - (ii) by the insertion, after paragraph (2), of the following paragraph—
 

“(3) A demand notice shall not be served before the authority has set amounts for the relevant year under section 30 of the Local Government Finance Act 1992.”<sup>(3)</sup>
  - (b) in regulation 14 (distress) by the insertion, after paragraph (1), of the following paragraph—
 

“(1A) Without prejudice to paragraph (8) below, no person making a distress shall seize any goods of the debtor of the following description—

such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and his family.”; and
  - (c) by the substitution for Schedule 3 (charges connected with distress) of the Schedule set out in the Schedule hereto.

### Other amendments

4. The Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990<sup>(4)</sup> shall be amended by the substitution, for paragraph (12) of regulation 4 (joint owners and occupiers: enforcement), of the following paragraph—

“(12) Where—

- (a) a liability order has been made against more than one person in respect of an amount; and
- (b) a charge has arisen as regards one of them under head B of the Table in paragraph 1 of Schedule 3 to the principal Regulations (as substituted by the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1993) in respect of that amount,

no further charge may be aggregated for the purposes of regulation 14(2) of those Regulations under that head or head A of that Table in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and a charge under head A(i) or charges under that head and head A(ii) against one of them shall be treated for those purposes as a charge or, as the case may be, charges under that head with respect to the others as well as that one.”.

Signed by authority of the Secretary of State for the Environment

16th March 1993

*John Redwood*  
Minister of State,  
Department of the Environment

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(3) 1992 c. 14.  
(4) S.I. 1990/145.

17th March 1993

*David Hunt*  
Secretary of State for Wales

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 3(c)

## SCHEDULE SUBSTITUTED FOR SCHEDULE 3

## “SCHEDULE 3

## CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 14(2) shall be as set out in the following Table—

(1) Matter connected with distress	(2) Charge
<b>A</b> For making a visit to premises with a view to levying distress (where no levy is made)—	£15.00.
(i) where the visit is the first or only such visit:	
(ii) where the visit is the second such visit:	£12.50.
<b>B</b> For levying distress:	The lesser of—
	(i) the amount of the costs and fees reasonably incurred; and
	(ii) the relevant amount calculated under paragraph 2(1) with respect to the levy.
<b>C</b> For one attendance with a vehicle with a view to the removal of goods (where, following the levy, goods are not removed):	Reasonable costs and fees incurred.
<b>D</b> For the removal and storage of goods for the purposes of sale:	Reasonable costs and fees incurred.
<b>E</b> For the possession of goods as described in paragraph 2(2)—	£10 per day.
(i) for close possession (the man in possession to provide his own board):	
(ii) for walking possession:	10 pence per day.
<b>F</b> For appraisalment of an item distrained, at the request in writing of the debtor:	Reasonable fees and expenses of the broker appraising.
<b>G</b> For other expenses of, and commission on, a sale by auction—	The auctioneer’s commission fee and out-of-pocket expenses (but not exceeding in aggregate 15 per cent. of the sum realised), together with reasonable costs and fees incurred in respect of advertising.
(i) where the sale is held on the auctioneer’s premises:	
(ii) where the sale is held on the debtor’s premises:	The auctioneer’s commission fee (but not exceeding 7½ per cent. of the sum realised), together with the auctioneer’s out-of-pocket expenses and reasonable costs and fees incurred in respect of advertising.

(1) Matter connected with distress	(2) Charge
<b>H</b> Where no sale takes place by reason of payment or tender in the circumstances referred to in regulation 14(4):	Reasonable costs and fees incurred in respect of advertising.

**2.—(1)** In head B of the Table in paragraph 1, “the relevant amount” with respect to a levy means—

- (a) where the sum due at the time of the levy does not exceed £100, £15;
- (b) where the sum due at the time of the levy exceeds £100, 15 per cent. on the first £100 of the sum due, 4 per cent. on the next £400, 2½ per cent. on the next £1,500, 1 per cent. on the next £8,000 and ¼ per cent. on any additional sum;

and the sum due at any time for these purposes means so much of the amount in respect of which the liability order concerned was made as is outstanding at the time.

(2) An authority takes close or walking possession of goods for the purposes of head E of the Table in paragraph 1 if it takes such possession in pursuance of an agreement—

- (a) to which the debtor is a signatory;
- (b) which is made at the time that the distress is levied; and
- (c) (without prejudice to such other terms as may be agreed) which is expressed to the effect that, in consideration of the authority not immediately removing the goods distrained upon from the premises occupied by the debtor and delaying its sale of the goods, the authority may remove and sell the goods after a later specified date if the debtor has not by then paid the amount distrained for (including charges under this Schedule),

and an authority takes close possession of goods on any day for those purposes if during the greater part of the day a person is left on the premises in physical possession of the goods on behalf of the authority under such an agreement.

**3.—(1)** Where the calculation under this Schedule of a percentage of a sum results in an amount containing a fraction of a pound, that fraction shall be reckoned as a whole pound.

(2) In the case of dispute as to any charge under this Schedule (other than a charge of a prescribed amount), the debtor or the authority may apply to the district judge of the county court for the district in which the distress is or is intended to be levied for the amount of the charge to be taxed.

(3) On any such application, the district judge may give such directions as to the costs of the taxation as he thinks fit; and any such costs directed to be paid by the debtor to the billing authority shall be added to the sum which may be aggregated under regulation 14(2).

(4) References in the Table in paragraph 1 to costs, fees and expenses include references to amounts payable by way of value added tax with respect to the supply of goods or services to which the costs, fees and expenses relate.”

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## EXPLANATORY NOTE

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

These Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the principal Regulations”) and the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (“the 1990 Regulations”).

Regulation 3(a) amends regulation 5 of the principal Regulations, which makes provision for the service of rate demand notices. The amendment secures that a rate demand notice cannot be served before the billing authority has set amounts of council tax for the year to which the demand notice relates.

Regulation 3(b) amends regulation 14 of the principal Regulations, which makes provision relating to the seizure and sale of goods of a debtor following the making of a liability order in respect of unpaid non-domestic rates. A new paragraph (1A) provides for protection from seizure of certain goods of the debtor.

Regulation 3(c) substitutes a new Schedule for Schedule 3 to the principal Regulations. The Schedule sets out the charges that may be made for matters connected with the seizure and sale of goods for unpaid non-domestic rates. The principal changes are—

- (a) the prescription of a charge which varies according to whether a visit where no goods are taken is the first (£15) or second (£12.50). The former provision allowed a charge related to the costs and fees actually incurred, subject to a prescribed maximum;
- (b) an increase from £12.50 to £15 in respect of the maximum charge for distress levied for sums due which at the time of the levy do not exceed £100, and on the first £100 of sums due which exceed that amount;
- (c) a reduction from 45 pence per day to 10 pence per day for taking walking possession of goods;
- (d) an increase from £4.50 per day to £10 per day for taking close possession of goods.

Regulation 4 amends the 1990 Regulations in consequence of the new Schedule substituted by regulation 3. It secures that, where a liability order has been made against joint owners or occupiers, certain of the charges for distress may be levied only once.