

2012 No. 537

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating (Cancellation of Backdated
Liabilities) Regulations 2012**

<i>Made</i> - - - -	<i>27th February 2012</i>
<i>Laid before Parliament</i>	<i>5th March 2012</i>
<i>Coming into force</i> - -	<i>31st March 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 49A(1) and 143(1) of the Local Government Finance Act 1988(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Cancellation of Backdated Liabilities) Regulations 2012 and shall come into force on 31st March 2012.

Interpretation

2. In these Regulations—

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

“the ALA Regulations” means the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009(b);

“alteration date” means the date mentioned in regulation 6(4);

“effective date” means the date mentioned in regulation 6(5);

“list” means a local non-domestic rating list;

“list alteration” means an alteration to a list within the meaning of Part 2 of the ALA Regulations;

“predecessor hereditament” has the meaning given by regulation 7;

“qualifying hereditament” has the meaning given by regulation 4;

“qualifying period” means—

(a) in relation to a case within regulation 3(1)(a), the period mentioned in regulation 4(3),
and

(b) in relation to a case within regulation 3(1)(b), the period mentioned in regulation 5(3);

“qualifying predecessor hereditament”, in relation to a hereditament shown on a list (“the current hereditament”), means a hereditament that—

(a) 1988 c.41. Section 49A was inserted by section 71 of the Localism Act 2011 (c.20).

(b) S.I. 2009/2268.

- (c) is a predecessor hereditament in a series of list alterations ending with the current hereditament, and
 - (d) would have been a qualifying hereditament had there been no further alterations to it;
- “ratepayer” has the same meaning as in sections 43 or 45 of the 1988 Act;
- “relevant list alteration” has the meaning given by regulation 6; and
- “a series of alterations” means one or more list alterations which follow each other in time and which met the conditions in regulations 7(2) to (4) at the time of each alteration.

Cancellation of liability for a qualifying hereditament

3.—(1) The chargeable amount under section 43 or 45 of the 1988 Act for a hereditament which is—

- (a) a qualifying hereditament; or
- (b) subject to paragraph (2), if it is not a qualifying hereditament, a hereditament in relation to which the conditions in regulation 5 are met,

for a chargeable day which falls within the qualifying period is zero.

(2) Where a hereditament falls within sub-paragraph (b), the chargeable amount is zero for a chargeable day within the qualifying period only where the ratepayer condition in paragraph (3) is met.

(3) The ratepayer condition is that the ratepayer in respect of the hereditament referred to in regulation 3(1)(b) was also the ratepayer of the qualifying predecessor hereditament after the relevant list alteration.

The qualifying hereditament

4.—(1) A hereditament is a qualifying hereditament if it meets the following conditions.

(2) The first condition is that the hereditament has been entered onto a list compiled on 1st April 2005 as a result of a relevant list alteration to a hereditament which was shown on that list.

(3) The second condition is that the period beginning with the effective date of the relevant list alteration and ending with the alteration date of the relevant list alteration is equal to or exceeds 33 months.

(4) The third condition is that the ratepayer in respect of the hereditament immediately after the date of the relevant list alteration was not, immediately before the date of the relevant list alteration, subject to a non-domestic rate under section 43 or 45 of the 1988 Act in respect of the hereditament referred to in regulation 6(7) or any predecessor hereditament to that hereditament.

Conditions relating to the hereditament referred to in regulation 3(1)(b)

5.—(1) The first condition is that there is a qualifying predecessor hereditament in relation to the hereditament referred to in regulation 3(1)(b).

(2) The second condition is that the qualifying predecessor hereditament was shown on a list compiled on 1st April 2005 as a result of a relevant list alteration to a hereditament which was shown on that list.

(3) The third condition is that the period beginning with the effective date of the relevant list alteration and ending with the alteration date of the relevant list alteration of the qualifying predecessor hereditament is equal to or exceeds 33 months.

(4) The fourth condition is that the ratepayer in respect of the qualifying predecessor hereditament immediately after the date of the relevant list alteration was not immediately before the date of the relevant list alteration of the qualifying predecessor hereditament subject to a non-domestic rate under section 43 or 45 of the 1988 Act in respect of the hereditament referred to in regulation 6(7) or any predecessor hereditament to that hereditament.

The relevant list alteration

6.—(1) An alteration is a relevant list alteration if it meets the following conditions.

(2) The first condition is that the alteration must have resulted in a hereditament being shown on a list compiled on 1st April 2005 for the first time.

(3) The second condition is that the alteration must have been made to correct an inaccuracy in a list compiled on 1st April 2005.

(4) The third condition is that the alteration must have been made on a date on or before 31st March 2010.

(5) The fourth condition is that the alteration must have been effective (in accordance with regulation 14 of the ALA Regulations) on a date on or after 1st April 2005.

(6) The fifth condition is that the alteration must not have been made as a consequence of a proposal made under Part 2 of the ALA Regulations.

(7) The sixth condition is that the alteration must have been made as a consequence of a hereditament becoming liable to being rated in parts.

The predecessor hereditament

7.—(1) A hereditament is a predecessor hereditament (“hereditament X”) in relation to another hereditament (“hereditament Y”) if it meets the conditions set out in paragraphs (2) to (4).

(2) The first condition is that hereditament X is not shown on a list.

(3) The second condition is that hereditament X was previously shown on a list.

(4) The third condition is that, when hereditament X appeared on the list, hereditament Y formed part of hereditament X.

Signed by authority of the Secretary of State for Communities and Local Government

27th February 2012

Bob Neill
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 49A of the Local Government Finance Act 1988, as inserted by section 71 of the Localism Act 2011, provides that the Secretary of State may make provision through regulations for the cancellation of certain backdated non-domestic rates liabilities. Section 49A also provides that the regulations only apply in relation to a non-domestic hereditament shown in a non-domestic rating list compiled on 1st April 2010, and which is shown for that day as the result of an alteration of the list made after the list was compiled.

These Regulations prescribe the cases to which the cancellation applies. Regulation 3 provides that the chargeable amount for a chargeable day within the qualifying period is zero, where a hereditament is either a qualifying hereditament, so meeting the conditions in regulation 4, or a hereditament in relation to which the conditions in regulation 5 are met (and the ratepayer meets certain conditions). Regulation 6 makes provision as to the circumstances when an alteration of a list is a relevant list alteration. Regulation 7 makes provision as to the meaning of predecessor hereditament for the purposes of the Regulations.

An Impact Assessment produced for the Localism Act 2011 can be found at: <http://www.communities.gov.uk/publications/localgovernment/localismnondomrates>. No separate Impact Assessment has been prepared for these Regulations.

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