
STATUTORY INSTRUMENTS

1989 No. 1058

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989

PART II

BILLING

Interpretation and application of Part II

3.—(1) In this Part—

“the amount payable” for a chargeable financial year or part of a chargeable financial year in relation to a ratepayer, a charging authority and a hereditament means the amount the ratepayer is liable to pay to the authority as regards the hereditament in respect of the year or part under section 43 or 45 of the Act (whether calculated by reference to section 43(4) to (6) or 45(4) to (6) or by reference to an amount or rules determined or prescribed under section 47(1)(a) or 57(3)(a) of the Act);

“demand notice” means the notice required to be served by regulation 4(1);

“ratepayer” in relation to a chargeable financial year and a charging authority means a person liable to pay an amount under section 43 or 45 of the Act to the authority in respect of the year; and

“relevant year” in relation to a notice means the chargeable financial year to which the notice relates.

(2) For the purposes of this Part the conditions mentioned in section 43(1) or 45(1) of the Act are not to be treated as fulfilled as regards a hereditament on any day on which the chargeable amount for the day in respect of it is 0 by virtue of a determination to that effect under section 47(1)(a) of the Act.

(3) Where references are made in this Part to the day on which a notice is issued, they shall be taken to be references—

(a) if the notice is served in the manner described in regulation 2(2) or section 233(2) of the Local Government Act 1972 by being left at, or sent by post to, a person’s place of business or proper address, to the day on which it is so left or posted, or

(b) in any other case, to the day on which it is served.

(4) The provisions of this Part which provide for the repayment or crediting of any amount or the adjustment of payments due under a notice (including in particular paragraph 7 of Schedule 1) shall have effect subject to paragraph 10(4) of Schedule 7 to the Act.

The requirement for demand notices

4.—(1) For each chargeable financial year a charging authority shall, in accordance with regulations 5 to 7, serve a notice in writing on every person who is a ratepayer of the authority in relation to the year.

(2) Different demand notices shall be served for different chargeable financial years.

(3) A demand notice shall be served with respect to the amount payable for every hereditament as regards which a person is a ratepayer of the authority, though a single notice may relate to the amount payable with respect to more than one such hereditament.

(4) If a single demand notice relates to the amount payable with respect to more than one hereditament, subject to paragraphs 5 and 8 of Schedule 1 the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued in respect of each hereditament.

Service of demand notices

5.—(1) Subject to paragraph (2), a demand notice shall be served on or as soon as practicable after—

- (a) except in a case falling within sub-paragraph (b), 1st April in the relevant year, or
- (b) if the conditions mentioned in section 43(1) or 45(1) of the Act are not fulfilled in respect of that day as regards the ratepayer and the hereditament concerned, the first day after that day in respect of which such conditions are fulfilled as regards them.

(2) A demand notice may, if the non-domestic multiplier for the relevant year has been determined or set under Schedule 7 to the Act, be served before the beginning of the relevant year on a person with respect to whom on the day it is issued it appears to the charging authority that the conditions mentioned in section 43(1) or 45(1) of the Act are fulfilled (or would be fulfilled if a list sent under section 41(5) of the Act were in force) as regards the hereditament to which it relates; and if it is so served, references in this Part to a ratepayer shall, in relation to that notice and so far as the context permits, be construed as references to that person.

Payments under demand notices

6.—(1) If a demand notice is issued before or during the relevant year and it appears to the charging authority that the conditions mentioned in section 43(1) or 45(1) of the Act are fulfilled (or would be fulfilled if a list sent under section 41(5) of the Act were in force) in respect of the day on which the notice is issued as regards the ratepayer and the hereditament to which it relates, the notice shall require payment of an amount equal to the charging authority's estimate of the amount payable for the year, made as respects periods after the issue of the notice on the assumption that the conditions concerned will continue to be fulfilled on every day after that day.

(2) If a demand notice is issued during the relevant year but paragraph (1) does not apply, the notice shall require payment of an amount equal to the amount payable for the period in the year up to the day on which the conditions mentioned in sections 43(1) and 45(1) were last fulfilled as regards the ratepayer and hereditament concerned.

(3) If, after a notice is served to which paragraph (2) applies, the conditions mentioned in section 43(1) or 45(1) of the Act are fulfilled again in the relevant year as regards the ratepayer and the hereditament concerned, a further notice shall be served on him requiring payments with respect to the amount payable in relation to the hereditament for the period in the relevant year beginning with the day in respect of which the conditions are so fulfilled again; and regulations 5 to 8 (and, so far as applicable, Schedule 1) shall apply to the further notice with respect to that period as if it were a demand notice and the conditions had not previously been fulfilled.

(4) If a demand notice is issued after the end of the relevant year, it shall require payment of the amount payable for the year.

Payments under demand notices: further provision

7.—(1) Unless an agreement under paragraph (3) in relation to the relevant year has been reached between the ratepayer and the charging authority before the demand notice is issued, a

notice to which regulation 6(1) applies shall require the estimate of the amount payable to be paid by instalments in accordance with Part I of Schedule 1; and where such instalments are required Part II of the Schedule applies for their cessation or adjustment in the circumstances described in that Part.

(2) If an agreement under paragraph (3) in relation to the relevant year has been reached between the charging authority and the ratepayer before the demand notice is issued, a notice to which regulation 6(1) applies shall require the estimate of the amount payable to be paid in accordance with that agreement.

(3) A charging authority and a ratepayer may agree that the estimate of the amount payable which is required to be paid under a notice to which regulation 6(1) applies should be paid in such manner as is provided by the agreement, rather than in accordance with Schedule 1.

(4) Notwithstanding anything in the foregoing provisions of this regulation, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in regulation 6(1) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with Schedule 1 before it was entered into.

(5) A notice to which regulation 6(2) or (4) applies shall require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(6) No payment in respect of the amount payable by a ratepayer in relation to a hereditament for any chargeable financial year (whether interim, final or sole) need be made unless a notice served under this Part requires it.

Failure to pay instalments

8.—(1) Where—

- (a) a demand notice has been served by a charging authority on a ratepayer,
- (b) instalments are payable under the notice in accordance with Schedule 1, and
- (c) any such instalment is not paid in accordance with the Schedule,

the charging authority shall (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid.

(2) If, after the service of a further notice under paragraph (1), the ratepayer—

- (a) fails to pay, before the expiry of the period of 7 days beginning with the day of service of the further notice, any instalments which fall due before the expiry of that period under the demand notice concerned, or
- (b) fails to pay any instalment which falls due after the expiry of that period under the demand notice concerned on or before the day on which it so falls due,

the unpaid balance of the estimated amount shall become payable by him at the expiry of a further period of 7 days beginning with the day of the failure.

(3) If the unpaid balance of the estimated amount has become payable under paragraph (2), and on calculating the amount payable for the relevant year in relation to a hereditament to which the demand notice concerned relates that amount proves to be greater than the estimated amount in relation to the hereditament, an additional sum equal to the difference between the two shall, on the service by the charging authority on the ratepayer of a notice stating the amount payable, be due from the person to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If the unpaid balance of the estimated amount has become payable under paragraph (2), and on calculating the amount payable for the relevant year in relation to a hereditament to which

the demand notice concerned relates that amount proves to be less than the estimated amount in relation to the hereditament, the charging authority shall notify the ratepayer in writing of the amount payable; and any overpayment in respect of any liability of the ratepayer under this Part—

- (a) shall be repaid if the ratepayer so requires, or
- (b) in any other case shall (as the charging authority determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.

(5) If any factor or assumption by reference to which the estimated amount was calculated in relation to a hereditament is shown to be false before the amount payable is capable of final determination for the purposes of paragraphs (3) and (4), the charging authority may, and if so required by the ratepayer shall, make a calculation of the appropriate amount with a view to adjusting the ratepayer's liability in respect of the estimated amount and (as appropriate) to—

- (a) requiring an interim payment from the ratepayer if the appropriate amount is greater than the estimated amount, or
- (b) making an interim repayment to the ratepayer if the appropriate amount is less than the amount of the estimated amount paid.

(6) The appropriate amount for the purposes of paragraph (5) is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year, the ratepayer and the hereditament on the day that the notice under paragraph (7) is issued or the repayment under paragraph (5)(b) is made (as the case may be); and more than one calculation of the appropriate amount and interim payment or repayment may be required or made under paragraph (5) according to the circumstances.

(7) On calculating the appropriate amount the charging authority shall notify the ratepayer in writing of it; and a payment required under paragraph (5)(a) shall be due from the ratepayer to the charging authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(8) In this regulation—

“the appropriate amount” has the meaning given in paragraph (6); and

“the estimated amount” means the amount last estimated under regulation 6(1) for the purposes of the demand notice mentioned in paragraph (1)(a) or any subsequent notice given under paragraph 7(2) of Schedule 1 prior to the failure mentioned in paragraph (2) above, save that if in any case an interim adjustment has been required or made under paragraph (5) in relation to a hereditament, it means as regards the next payment, repayment or interim adjustment in relation to the hereditament under this regulation (if any), the appropriate amount by reference to which the previous interim adjustment was so made.

Demand notices: final adjustment

9.—(1) This regulation applies where—

- (a) a notice has been issued by a charging authority under this Part requiring a payment or payments to be made by a ratepayer in respect of the amount payable in relation to a hereditament for a chargeable financial year or part of a chargeable financial year,
- (b) the payment or payments required to be paid are found to be in excess of or less than the amount payable in relation to the hereditament for the year or the part, and
- (c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of this Part, of the Act or of any agreement entered into under regulation 7(3).

(2) The charging authority shall as soon as practicable after the expiry of the year or the part of a year serve a further notice on the ratepayer stating the amount payable for the year or part in relation to the hereditament, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in paragraph (1)(a), the amount of the difference for which such other provision as is mentioned in paragraph (1)(c) is not made shall be due from the ratepayer to the charging authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment in respect of any liability of the ratepayer under this Part, the amount overpaid for which such other provision as is mentioned in paragraph (1)(c) is not made—

- (a) shall be repaid if the ratepayer so requires, or
- (b) in any other case shall (as the charging authority determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.