

SCHEDULE 1

NON-DOMESTIC RATE INSTALMENT SCHEME

PART II

cessation and adjustment of instalments

6.—(1) This paragraph applies where the demand notice has been served on a ratepayer by a charging authority, and in respect of a day (“the relevant day”) after its issue neither the conditions mentioned in section 43(1) nor those mentioned in section 45(1) of the Act are fulfilled (or, as the case may be, would be fulfilled if a list sent under section 41(5) of the Act were in force) as regards the ratepayer and the hereditament to which the notice relates.

(2) Subject to sub-paragraphs (5) and (6), no payments of instalments falling due after the relevant day are payable under the notice in relation to the hereditament.

(3) The charging authority shall on the relevant day or as soon as practicable after that day serve a notice on the ratepayer stating the amount payable in relation to the hereditament for the period in the relevant year up to the relevant day.

(4) If the amount stated under sub-paragraph (3) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day in relation to the hereditament, the difference shall go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment in respect of any liability of the ratepayer under Part II of these Regulations—

- (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 credited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.

(5) If the amount stated under sub-paragraph (3) is greater than the aggregate amount of any instalments which have fallen due in relation to the hereditament on or before the relevant day, the difference between the two 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 served under that sub-paragraph as is specified in it.

(6) If this paragraph applies in relation to a demand notice, and after the relevant day 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, this Schedule) 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.

7.—(1) This paragraph applies where the demand notice has been served on a ratepayer by a charging authority, any factor or assumption by reference to which the estimate made under regulation 6(1) for the purpose of the notice was calculated is shown to be false in respect of a day (“the relevant day”), and the event mentioned in paragraph 6(1) above has not occurred as regards the hereditament to which the notice relates.

(2) The charging authority shall on or as soon as practicable after the relevant day—

- (a) serve a notice on the chargeable person which is to state the amount of the revised estimate mentioned in sub-paragraph (3), and

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(b) adjust the instalments (if any) payable on or after the adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (4).

(3) The amount is the revised estimate of the charging authority of the amount payable for the relevant year in relation to the hereditament made on the assumption mentioned in regulation 6(1) and as if the notice mentioned in that provision were the notice referred to in sub-paragraph (2) above.

(4) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with paragraph 1(4) and (5) as if references in those provisions to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

(5) If the revised estimate mentioned in sub-paragraph (3) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess shall be due from the chargeable person to the charging authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2) as is specified in it; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under Part II of these Regulations—

(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 credited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate.

(6) Where a notice has been given under sub-paragraph (2), in the operation of this paragraph as respects any further notice that may fall to be given under it, references in this paragraph to the demand notice and to amounts in respect of instalments payable under it shall be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under this paragraph; and in calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of sub-paragraphs (4) and (5) in consequence of the calculation of the revised estimate mentioned in sub-paragraph (3), there shall not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under paragraph 10(4) of Schedule 7 to the Act or (on the occasion of the giving of a previous notice under sub-paragraph (2)) under sub-paragraph (5) above.

(7) In this paragraph “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2) is issued.

8. If pursuant to regulation 4(3) the demand notice relates to more than one hereditament for which such an estimate as is referred to in regulation 6(1) is made—

(a) references in paragraphs 6(1) to (5) and 7(1) and (3) to “the hereditament” shall be construed as references to all the hereditaments, so that paragraph 6 applies only if the event mentioned in sub-paragraph (1) of that paragraph has occurred in relation to all of them,

(b) the relevant day shall be determined for the purposes of paragraph 6 by reference to the hereditament with respect to which the conditions referred to in sub-paragraph (1) of that paragraph were (or, as the case may be, would be) last fulfilled,

(c) the reference to “the hereditament concerned” in paragraph 6(6) shall be construed as a reference to any of the hereditaments concerned, and

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- (d) where neither the conditions mentioned in section 43(1) nor those mentioned in section 45(1) of the Act are fulfilled with respect to a hereditament to which the notice relates but paragraph 6 does not apply by virtue of paragraph (a) above, references in paragraph 7 to the revised estimate mentioned in sub-paragraph (3) of that paragraph shall be construed insofar as concerns that hereditament as references to the amount payable in relation to the hereditament for the period in the relevant year up to the day on which the conditions were last fulfilled.

9. More than one adjustment of amounts paid or payable under a demand notice may be made under this Part as the circumstances require.