
STATUTORY INSTRUMENTS

1995 No. 212

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Changes for England (Non-Domestic Rating, Collection and Enforcement and Discretionary Relief) Regulations 1995

Made - - - - *30th January 1995*
Laid before Parliament *7th February 1995*
Coming into force - - *28th February 1995*

The Secretary of State, in exercise of the powers conferred on him by sections 19(1) and (2) and 26(3) to (5) of the Local Government Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Local Government Changes for England (Non-Domestic Rating, Collection and Enforcement and Discretionary Relief) Regulations 1995 and shall come into force on 28th February 1995.

Interpretation

2.—(1) In these Regulations—

“the Discretionary Relief Regulations” means the Non-Domestic Rating (Discretionary Relief) Regulations 1989⁽²⁾;

“the principal Regulations” means the Local Government Changes for England (Finance) Regulations 1994⁽³⁾;

“the 1989 Regulations” means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989⁽⁴⁾; and

(1) 1992 c. 19.

(2) S.I.1989/1059.

(3) S.I. 1994/2825.

(4) S.I. 1989/1058. Relevant amendments to the Non-Domestic Rating (Collection and Enforcement) Regulations 1989 were made by the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (S.I. 1990 No. 145), the Community Charges and Non-Domestic Rating (Miscellaneous Provisions) Regulations 1992 (S.I. 1992 No. 474), the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) Regulations 1992 (S.I. 1992 No. 1512), the Non-Domestic Rating (Collection and Enforcement) (Amendment and Miscellaneous Provisions) Regulations

“relevant successor authority” means, in connection with non-domestic rates payable to the abolished authority in respect of hereditaments situated in a part of its area, the successor authority for that part.

(2) In these Regulations the following expressions shall have the meanings given in the principal Regulations—

“abolished authority”, “the Act”, “the 1988 Act”, “initial year”, “preceding year”, “preliminary period”, “the reorganisation date”, “section 17 order”, and “successor authority”.

(3) In these Regulations—

- (a) any reference to a relinquishing authority is a reference to a local authority which, by virtue of a section 17 order, ceases to have functions in relation to a part of its area (referred to in these Regulations as “the transferred area”) from the reorganisation date; and
- (b) any reference to an acquiring authority is a reference to an authority which, by virtue of a section 17 order, has from the reorganisation date all the functions (or would have all the functions but for an order under sections 21 and 22 of the Act) which prior to that date were the functions of the relinquishing authority in relation to the transferred area.

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

Billing authorities

3. For the purposes of the 1989 Regulations references to “billing authority” shall, from the beginning of the preliminary period, include an authority which has functions under Part III of the 1988 Act by virtue of regulation 28(1) of the principal Regulations.

Billing authorities' functions during the preliminary period

4.—(1) The 1989 Regulations shall have effect during the preliminary period for the purposes of the exercise of functions under those Regulations by a successor authority, a relinquishing authority or an acquiring authority as regards the initial year as if the relevant structural or boundary change had come into effect at the beginning of the preliminary period.

(2) An abolished authority shall not exercise any of the functions of a billing authority under the 1989 Regulations as regards the initial year.

Rights and duties of successor and relinquishing authorities

5.—(1) The 1989 Regulations shall have effect, on or after the reorganisation date, as if the rights and duties exercisable by or in relation to an abolished authority in connection with non-domestic rates payable to it in respect of hereditaments situated in any part of its area were rights and duties exercisable by or in relation to the relevant successor authority and any references to a billing authority in those Regulations shall have effect accordingly.

(2) For the purposes of paragraph (1) anything done by or in relation to an abolished authority in the exercise of its functions under the 1989 Regulations shall be treated as if it had been done by or in relation to the relevant successor authority.

(3) The 1989 Regulations shall have effect, on or after the reorganisation date, as if the rights and duties exercisable by or in relation to a relinquishing authority in connection with non-domestic rates payable to it in respect of a hereditament situated in the transferred area continued to be exercisable as regards any preceding year by or in relation to the relinquishing authority in relation to that part, and as if the acquiring authority had no rights and duties in connection with such non-domestic rates

as regards any preceding year, and any references to a billing authority in those Regulations shall have effect accordingly.

Application for liability order

6.—(1) Where an abolished authority applied for a liability order under regulation 12 (application for liability order) of the 1989 Regulations and the order is made on or after the reorganisation date—

- (a) regulation 12(6)(b) of the 1989 Regulations shall apply on or after the reorganisation date as if the costs referred to were those reasonably incurred by the abolished authority and the relevant successor authority in obtaining the order; and
- (b) regulation 12(7) of the 1989 Regulations shall apply on or after that date as if the costs of the abolished authority in making the application had been the costs of the relevant successor authority.

Distress

7. Where a liability order was made under regulation 12 of the 1989 Regulations on the application of an abolished authority, regulation 14 (distress) of those Regulations shall apply on or after the reorganisation date as if the liability order had been applied for by the relevant successor authority.

Appeals in connection with distress

8. Where an abolished authority has levied or attempted to levy a distress under regulation 14 of the 1989 Regulations, regulation 15(2) and (4) (appeals in connection with distress) of those Regulations shall apply on or after the reorganisation date as if the levy had been made or attempted by the relevant successor authority.

Commitment to prison

9. Where an abolished authority has sought to levy an amount by distress under regulation 14 of the 1989 Regulations, regulation 16 (commitment to prison) of those Regulations shall apply on or after the reorganisation date as if it had been the relevant successor authority which had sought to levy the distress and as if the costs of the abolished authority in seeking to levy the distress had been the costs of the successor authority.

Magistrates' courts

10. Regulation 21(4) and (5) (magistrates' courts) of the 1989 Regulations shall apply on or after the reorganisation date in relation to any proceeding prosecuted or continued by the successor authority as if the reference to the applicant authority included the abolished authority.

Non-Domestic Rating (Discretionary Relief) Regulations 1989

Duties of acquiring authorities

11. The Discretionary Relief Regulations shall have effect, on or after the reorganisation date, as if any decision made or revoked, or any determination made or varied, by a relinquishing authority in connection with non-domestic rates payable to it in respect of a hereditament situated in the transferred area had been made, revoked or varied by the acquiring authority.

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

Signed by authority of the Secretary of State

Department of the Environment
30th January 1995

David Curry
Minister of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 1992 makes provision for local government changes in England. Where recommendations for change are made by the Local Government Commission, the Secretary of State may make an order giving effect to those recommendations (“a reorganisation order”). The Local Government Changes for England (Finance) Regulations 1994 (“the principal regulations”) make transitional financial provisions in relation to reorganisation orders.

These Regulations make transitional and consequential amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 which provide for the collection and enforcement of non-domestic rates under the Local Government Finance Act 1988.

These Regulations provide for the rights and liabilities existing, prior to the date for reorganisation provided for in a reorganisation order, under the 1989 Regulations of an authority which is abolished under such an order to become those of the successor authority in relation to the area in which the relevant property is situated, and for those of a relinquishing authority under such an order to remain its rights and liabilities. The Regulations also apply the 1989 Regulations to authorities which under the principal regulations have the functions of billing authorities in advance of the date for reorganisation provided for in a reorganisation order.

In addition, the Regulations make a transitional amendment to the Non-Domestic Rating (Discretionary Relief) Regulations 1989 by providing that any decision or determination of a relinquishing authority under a reorganisation order in relation to a property which, as a result of such an order, is transferred to the area of another authority shall have effect as if it were the decision or determination of the acquiring authority.