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STATUTORY INSTRUMENTS

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**2008 No. 428**

**RATING AND VALUATION, ENGLAND**

**The Local Government (Non-Domestic Rating)  
(Consequential Amendments) (England) Order 2008**

<i>Made</i>	- - - -	<i>20th February 2008</i>
<i>Laid before Parliament</i>		<i>27th February 2008</i>
<i>Coming into force</i>	- -	<i>24th March 2008</i>

The Secretary of State, in exercise of the powers conferred by section 127(3) of the Local Government Act 2003<sup>(1)</sup> and paragraph 8(1) of Schedule 1 to the Rating (Empty Properties) Act 2007<sup>(2)</sup>, makes the following Order:

**Citation, commencement and application**

1.—(1) This Order, which applies to England only, may be cited as the Local Government (Non-Domestic Rating) (Consequential Amendments) (England) Order 2008 and shall come into force on 24th March 2008.

(2) The amendments made by paragraphs 1(a)(ii) and 2(a) of the Schedule to this Order apply from the day it comes into force.

(3) The amendments made by the remaining paragraphs of the Schedule to this Order apply from 1st April 2008.

**Amendments**

2. The enactments listed in the Schedule to this Order are amended as specified in that Schedule.

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(1) 2003 c.26.  
(2) 2007 c.9.

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

20th February 2008

*John Healey*  
Minister of State  
Department for Communities and Local  
Government

SCHEDULE

Article 2

AMENDMENTS

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

1. In regulation 3 (interpretation and application of Part II) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(3)—

- (a) in paragraph (1), in paragraph (a) of the definition of “the amount payable”—
  - (i) for “45(4) to (6)” substitute “45(4) or (4A)”, and
  - (ii) after “47(1)(a)” insert “, 57A(3)(a)”; and
- (b) in paragraph (2) after “0” insert “under section 45A of the Act or”.

**The Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990**

2. In regulation 3 (joint owners and occupiers) of the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990(4)—

- (a) in paragraph (2)(a) after “47(1)(a)” insert “, 57A(3)(a)”; and
- (b) for paragraph (7) substitute—

“(7) For the purposes of any time to which paragraph (2)(b) applies—

- (a) the requirement in section 43(6)(a), 45A(2)(a) and 47(2)(a) of the Act that the ratepayer should be a charity or trustees for a charity is met if one or more of the owners or occupiers jointly and severally liable is a charity or (as the case may be) some or all of them are trustees for a charity; and
- (b) the requirement in section 43(6)(b), 45A(3)(a) and 47(2)(ba) of the Act that the ratepayer should be a registered club for the purposes of Schedule 18 to the Finance Act 2002 (community amateur sports clubs) is met if one or more of the owners or occupiers jointly and severally liable is such a club.”.

**The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004**

3. In the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004(5)—

- (a) in regulation 4 (special authorities)—
  - (i) for the second formula in paragraph (9) substitute—

$$\frac{((D_{SA} - D) \times N)}{(C \times Z)}$$

- (ii) for paragraph 10 substitute—

“(10) This paragraph applies where, on the day concerned—

- (a) the conditions in section 45(1) of the Act (unoccupied property: liability) are fulfilled as respects the hereditament;
- (b) the hereditament is not zero-rated under section 45A (unoccupied hereditaments: zero-rating); and

(3) S.I. 1989/1058, amended by S.I. 1991/141; there are other amending instruments but none is relevant.

(4) S.I. 1990/145, to which there are amendments not relevant to this Order.

(5) S.I. 2004/3387, amended by S.I. 2005/991; there are other amending instruments but none is relevant.

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- (c) an Order under section 45(4A) is in force and has effect in relation to the hereditament.”,
- (iii) for paragraph 11 substitute—
  - “(11) Where paragraph 12 applies, paragraph (2) shall have effect as regards the hereditament for the day as if the result of the formula in that paragraph were zero.”,
- (iv) for paragraph 12 substitute—
  - “(12) This paragraph applies where, on the day concerned, the chargeable amount for the hereditament would be zero under section 45A of the Act (unoccupied hereditaments: zero-rating).”, and
- (v) at the end of paragraph 14 insert—
  - “Z is the number prescribed in an Order under section 45(4A) of the Act.”;
- (b) in regulation 10 (application of regulation 11), after paragraph (2), insert—
  - “(2A) Regulation 11 shall not apply where, on the day concerned, the chargeable amount for the hereditament is zero under section 45A of the Act.”;
- (c) in regulation 11 (rules for determining chargeable amount)—
  - (i) in paragraph (1) for “45(4) to (6)” substitute “45(4) and (4A)”, and
  - (ii) for paragraphs (10) and (11) substitute—
    - “(10) Where paragraph 11 applies, the chargeable amount for a chargeable day shall be found by dividing the amount calculated in accordance with paragraph (3) by the number prescribed in an Order under section 45(4A) (reduction in chargeable amount for unoccupied properties) of the Act.
    - (11) This paragraph applies where, on the day concerned—
      - (a) the conditions in section 45(1) of the Act (unoccupied property: liability) are fulfilled as respects the hereditament; and
      - (b) an Order under section 45(4A) is in force and has effect in relation to the hereditament.”;
- (d) in paragraph 4 of Schedule 2 (rules for determination of chargeable amount for new hereditament: splits after 1st April 2005)—
  - (i) in sub-paragraph (1)—
    - (aa) at the end of paragraph (c) insert—
      - “and
      - (d) the chargeable amount for the chargeable day for the new hereditament is not zero under section 45A of the Act.”, and
    - (bb) for “45(4) to (6)” substitute “45(4) and (4A)”, and
  - (ii) for sub-paragraphs (9) and (10) substitute—
    - “(9) Where sub-paragraph 10 applies, the chargeable amount for a chargeable day shall be found by dividing the amount calculated in accordance with paragraph (2) by the number prescribed in an Order under section 45(4A) (reduction in chargeable amount for unoccupied properties) of the Act.
    - (10) This sub-paragraph applies where, on the day concerned—
      - (a) the conditions in section 45(1) of the Act (unoccupied property: liability) are fulfilled as respects the hereditament; and
      - (b) an Order under section 45(4A) is in force and has effect in relation to the hereditament.”; and

- (e) in paragraph 5 of Schedule 2 (rules for determination of chargeable amount for new hereditament: mergers after 1st April 2005)—
  - (i) in sub-paragraph (1)—
    - (aa) at the end of paragraph (c) insert—
      - “and
      - (d) the chargeable amount for the chargeable day for the new hereditament is not zero under section 45A of the Act,” and
    - (bb) for “45(4) to (6)” substitute “45(4) and (4A)”, and
  - (ii) for sub-paragraphs (9) and (10) substitute—
    - “(9) Where paragraph 10 applies, the chargeable amount for a chargeable day shall be found by dividing the amount calculated in accordance with paragraph (2) by the number prescribed in an Order under section 45(4A) (reduction in chargeable amount for unoccupied properties) of the Act.
    - (10) This paragraph applies where, on the day concerned—
      - (a) the conditions in section 45(1) of the Act (unoccupied property: liability) are fulfilled as respects the hereditament; and
      - (b) an Order under section 45(4A) is in force and has effect in relation to the hereditament.”.

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## EXPLANATORY NOTE

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

This Order amends other legislation as a consequence of the Local Government Act 2003 (“the 2003 Act”) and the Rating (Empty Properties) Act 2007 (“the 2007 Act”).

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”) and the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (“the 1990 Regulations”) are amended to reflect the reforms made to liability for rates in respect of empty non-domestic properties by the 2007 Act. These reforms primarily increased the liability of owners of empty non-domestic properties from 50% of the basic rate for occupied properties to 100% and put in place a zero rate for charities and community amateur sports clubs which own empty non-domestic properties. The 2007 Act also gave the Secretary of State the power to reduce, by order, the liability of owners of empty non-domestic properties, to a minimum of 50% of the basic occupied rate.

The 1989 Regulations and 1990 Regulations are also amended to reflect the insertion by the 2003 Act of a new section 57A into the Local Government Finance Act 1988 (“the 1988 Act”).

The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004 provide for a transition scheme which phases in changes to liability as a result of the revaluation of non-domestic properties in England on 1st April 2005. Those Regulations are amended so that liability to rates in respect of unoccupied properties under the scheme is consistent with liability under the 1988 Act following the amendments made by the 2007 Act.

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The provisions of the 2007 Act apply in respect of financial years beginning on or after 1st April 2008. The amendments in this Order relating to the 2007 Act have the same application. The amendments relating to the 2003 Act apply from the date this Order comes into force.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.