

2011 No. 966 (W.140)

**RATING AND VALUATION,
WALES**

**The Non-Domestic Rating
(Collection and Enforcement)
(Local Lists) (Amendment) (Wales)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 1A to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”) (S.I. 1989/1058) in respect of Wales. Schedule 1A was inserted by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (Wales) Regulations 2009 (“the 2009 Regulations”) (S.I. 2009/461) (W.48) to make special provision in relation to the collection of certain backdated liability to non-domestic rates.

The 1989 Regulations provide for a ratepayer’s annual rates liability to be discharged in instalments in many cases. However, where a demand notice – or rates bill – is issued after the end of the financial year to which it relates, the sum becomes payable in full. This can happen where a hereditament is shown on a rating list for the first time with effect from a date in that year following an amendment to the rating list which is not made until after the year has ended.

Schedule 1A provides that, subject to the criteria in paragraph 1 being satisfied, where a ratepayer is subject to backdated liability that has not already been discharged, the billing authority and the ratepayer can agree to reschedule payment of the liability that accrued in the period between the effective date of the amendment to the rating list and the date the amendment was actually made, over a period not exceeding eight years.

These Regulations amend paragraph 2 of Schedule 1A which, subject to the existing criteria being

satisfied, allows a billing authority and a ratepayer to agree that backdated liability that has not already been discharged must be paid over a period not exceeding eight years. The amendments give the ratepayer and the billing authority the power to agree that instalments of the payment of the backdated liability must be deferred until on or after 1 April 2012, within the eight year period. The Regulations also amend paragraph 1 of Schedule 1A so that an agreement may apply to demand notices served as a consequence of one or more list alterations, if served in the financial year beginning on 1 April 2011, and extends the relevant list alteration date to on or before 31 March 2011.

The Regulations also insert a new paragraph 2A into Schedule 1A which allows a ratepayer and billing authority who have already entered into an agreement under paragraph 2 before the coming into force of the Regulations to enter into a new agreement under paragraph 2 which replaces the existing agreement. The new agreement may relate to any backdated liability which should have been discharged under the existing agreement but has not been so discharged, but may not relate to any backdated liability which has already been discharged under the existing agreement. It must, however, be entered into before 31 March 2012 and the period over which the instalments are to be discharged must not exceed a period of eight years from the day of the existing agreement.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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**RATING AND VALUATION,
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Regulations 2011**

Made 26 March 2011

Laid before the National Assembly for Wales

29 March 2011

Coming into force 22 April 2011

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by section 143(1) and (2) of, and paragraph 1 of Schedule 9 to, the Local Government Finance Act 1988⁽¹⁾ and now vested in them⁽²⁾.

Title, commencement, and application

1. The title of these Regulations, which apply to Wales, is the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (Wales) Regulations 2011 and they come into force on 22 April 2011.

(1) 1988 c.41.

(2) The functions of the Secretary of State contained in the Local Government Finance Act 1988 were transferred, so far as they are exercisable in relation to Wales, to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, article 2, Schedule 1). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32) those functions are vested in the Welsh Ministers.

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

2.—(1) Schedule 1A to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(1) is amended as follows.

(2) In paragraph 1—

(a) for sub-paragraph (1)(b) substitute—

“(b) the demand notice or notices were served in the financial year beginning on 1 April 2007, 1 April 2008, 1 April 2009, 1 April 2010 or 1 April 2011.”; and

(b) for sub-paragraph (2)(c) substitute—

“(c) which is made on or before 31 March 2011.”.

(3) In paragraph 2—

(a) for sub-paragraph (2)(b), substitute—

“(b) provide for the backdated liability to be discharged—

(i) in instalments over a period not exceeding eight years commencing on the day that the agreement is reached; or

(ii) over a period not exceeding eight years commencing on the day that the agreement is reached in instalments beginning on or after 1 April 2012.”; and

(b) in sub-paragraph (3)—

(i) after “it is in force” insert “and instalments are payable”;

(ii) for paragraph (b), substitute—

“(b) B equals—

(i) in relation to an agreement mentioned in sub-paragraph (2)(b)(i), the total number of days the agreement will be in force,

(ii) in relation to an agreement mentioned in sub-paragraph (2)(b)(ii), the total number of days the agreement will be in force but ignoring any day before 1 April 2012; and”.

(4) After paragraph 2, insert—

(1) S.I. 1989/1058, amended by S.I. 2009/461 (W.48); there are other amending instruments but none are relevant.

“Replacement of existing agreements to reschedule backdated liability

2A.—(1) This paragraph applies where a billing authority and a ratepayer have entered into an agreement under paragraph 2 on or before the date that these Regulations come into force (“the existing agreement”).

(2) Where this paragraph applies, a billing authority and a ratepayer may agree that backdated liability should be discharged in the manner provided by a further agreement under paragraph 2 (“the new agreement”) which will replace, from the day the new agreement is reached, the existing agreement.

(3) The new agreement may relate to any backdated liability which should have been discharged under the existing agreement prior to the day the new agreement is reached but has not been so discharged, notwithstanding the service of a notice under regulation 8 (as modified by paragraph 4) requiring payment of the unpaid balance or any action taken under Part 3.

(4) The new agreement may not—

- (a) relate to any backdated liability which has already been discharged under the existing agreement, prior to the day the new agreement is reached;
- (b) provide for the period of the new agreement (including any period during which instalments are not payable) to extend beyond eight years from the day the existing agreement was reached; and
- (c) be entered into after 31 March 2012.”.

Carl Sargeant

Minister for Social Justice and Local Government, one of the Welsh Ministers

26 March 2011