

**NATIONAL ASSEMBLY FOR WALES****LEGISLATION COMMITTEE REPORT****The Non-Domestic Rating (Chargeable Amounts) (Amendment) (Wales) Regulations 2000****Background**

Non-domestic rates are payable by reference to a "chargeable amount" which is calculated for each chargeable day.

Sections 43, 45 and 54 of the Local Government Finance Act 1988 contain provision for the calculation of the "chargeable amount" in relation to occupied hereditaments, unoccupied hereditaments and hereditaments shown in the central rating list.

Under section 58 of the Act the Assembly can make regulations specifying different rules for the calculation of the chargeable amount in the above cases.

Such provision has been made in the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 1999 (W.51).

The present Regulations amend the 1999 Regulations in the following respects –

The period for which the 1999 Regulations apply is extended from three years to five years to rectify a defect identified by the Legislation Committee. In relation to the additional two years the Regulations do not apply a revised method for the calculation of the chargeable amount. For those two years the chargeable amount will be calculated as provided for in the Act.

Regulation 10 is amended so that if the chargeable amount as calculated under that regulation is less than that calculated under the Act, the latter amount is payable.

Provision is inserted for the payment of a reduced chargeable amount in the case of properties occupied for charitable purposes, general stores or post offices in rural settlements and unoccupied properties.

The appeal period in regulation 12 is extended.

Provision is made as to the date from which alterations in the valuation list are to have effect.

### **Standing Order 11.5**

No points have been identified as matters in respect of which the Committee needs to invite the Assembly to pay special attention under Standing Order 11.5.

There are, however, some general observations which it is considered should be drawn to the attention of the Assembly.

### **General Observations**

#### **Explanatory Note – third paragraph**

This states that Regulation 10 is amended so as to limit the amount by which the chargeable amount is reduced in certain circumstances.

This does not appear to be a correct description of the effect of the amendment to Regulation 10, however. Regulation 10, as amended, does not allow for any reduction in the chargeable amount.

The new Regulation 10(4) provides that Regulation 10 can only have the effect of imposing a chargeable amount which is equal to or higher than that which would be imposed under Part III of the Act. I.e. paragraph (4) provides that if the sum produced by the formula in Regulation 10 is less than under Part III of the Act, the Part III amount will be payable.

#### **Explanatory Note – Regulation 3(6)**

Although explaining all other amendments made by the Regulations, the Explanatory Note does not appear to cover the amendments made by Regulation 3(6).

#### **Regulation 3 – heading**

The heading would read better if "to" was substituted for "of".

#### **Regulation 3(2)**

Normal practice would be for a definition such as this to be inserted, in the English text, at the beginning of the list of definitions.

#### **Regulation 3(4)**

The wording should be –

"In Regulation 8, after paragraph (4), insert –"

#### **Regulation 3(5) - Layout**

The layout is correct in the Welsh text, but in the English text the indentation is defective in respect of the inserted paragraph (5).

### **Regulation 3(5)**

The inserted paragraph (4) amends Regulation 10 of the 1999 regulations so that the chargeable amount calculation under Regulation 10 will not operate to reduce the chargeable amount payable.

Since there must thus be cases in which the calculation under Regulation 10 produces a higher chargeable amount than would be payable under the Act, regard must be had to section 58(9) of the Act.

Section 58(9) provides that in making regulations the Assembly are to have regard to the object of securing (so far as practicable) that the aggregate amount payable by way of non-domestic rates does not exceed the amount which it would be likely to be apart from the regulations.

It has been confirmed to the Legal Adviser to the Committee that the overall amount payable under the Regulations will never be higher than the amount which would be payable under the Act. Regulation 8 is paid for by the effect of Regulation 10, so that the scheme is self financing.

### **Regulation 3(6)**

The inserted Regulation 10A provides for Regulation 10B to apply in cases where sections 43(5), 43(6A) or 45 do not apply as at 31 March 2000.

Given that Regulation 10B(2) and (3) only apply where, respectively, sections 43(6B) and 45(1) apply, it is assumed that the intention is for 10B(2) and (3) to apply where the sections in question did not apply at 31 March 2000 but do apply subsequently.

### **Regulation 3(8)**

The inserted Regulation 13 provides for Regulation 11(1) to apply where an alteration made to a valuation list under the 1993 Regulations has effect from a date later than 1 April 2000.

The lawyers responsible for the drafting of the present Regulations have confirmed that the intention is that Regulation 11(1) should apply so that the Valuation Officer may certify the value as altered under the 1993 Regulations.

### **Footnotes (d) and (e)**

It is noted that although the amending Regulations 2000 W.29 were considered by the Legislation Committee at its meeting on 28 March 2000, they have not yet been published.

### **Corrections**

It is considered that the following matters (which are identified above) would be capable of correction by a Memorandum of Corrections under SO 22.12A –

Explanatory Note – defective description of the effect of the amendment to Regulation 10.

Explanatory Note – omission of reference to amendments made by Regulation 3 (6).

Regulation 3 – amendment of heading

Regulation 3(2) – instructions for insertion of the new definition in the English text.

Regulation 3(4) - adjustment of opening wording.

Regulation 3(5) - indentation of the inserted paragraph (5), although this could simply be dealt with as a printing correction.

**M. German OBE AM**  
Chair,

Legislation Committee

**4th July 2000**