

NATIONAL ASSEMBLY FOR WALES

LEGISLATION COMMITTEE REPORT

The Valuation for Rating (Plant and Machinery)(Wales) Regulations 2000

Background

Paragraph 2 of Schedule 6 to the Local Government Finance Act 1988 contains provision concerning the method to be used in assessing the rateable value of non-domestic premises.

Paragraph 2(8) of Schedule 6 allows the Assembly to make regulations prescribing, in relation to the above provisions, assumptions which are to be made in the valuation process. Such assumptions are to apply to such classes of hereditament as are prescribed in the regulations.

The present regulations set out assumptions which are to be made in relation to hereditaments which contain plant and machinery.

Plant and machinery specifically described in the regulations is to be assumed to form part of the hereditament, and any other plant or machinery is to be assumed not to affect the value of the hereditament.

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 comments which it is considered should be drawn to the attention of the Assembly.

Comment on the Regulations

Explanatory Note

The reader would be assisted if this was split into paragraphs. Three paragraphs would seem possible.

The note refers only to one of the two prescribed assumptions ie the assumption to be made in respect of plant and machinery which is to be assumed to be part of a hereditament. It would be helpful if the note also referred to the assumption which is required to be made that other

plant or machinery does not affect the valuation of the hereditament (regulation 2(b)).

Date of Making

Instruments made under the urgency procedure should have the date of making inserted on the copy submitted to the Legislation Committee.

Regulation 2

The regulation making power in paragraph 2(8) of Schedule 6 to the 1988 Act provides for the regulations to specify prescribed classes of hereditament in relation to which prescribed assumptions are to apply.

The prescribed hereditaments are those described in paragraphs (a) and (b) of regulation 2. It would have been clearer, however, if the opening wording of regulation 2 had specifically indicated that classes of hereditament were being prescribed as in paragraphs (a) and (b).

Since sub-paragraphs (1) to (7) of paragraph 2 of Schedule 6 to the 1988 Act have been added to by the insertion of additional paragraphs, it would have been helpful to include a footnote identifying the amending legislation.

Paragraphs (a) and (b) merely state what the prescribed assumptions are. It is to be noted, however, that the enabling provision is in the following terms –

"(8) ... may make regulations providing that ... prescribed assumptions are to be made."

It would thus have been clearer if paragraphs (a) and (b) had included provision requiring the prescribed assumptions "to be made".

Schedule

It is noted from the explanatory note that this derives from an Advisory Committee which carried out a review for the purpose of harmonising provision throughout the UK.

Notwithstanding this, however, it is considered appropriate to draw to the attention of the Assembly the fact that drafting by such detailed and diverse listing is not in general accord with modern legislative drafting methods. In particular there is always the difficulty that such listing can never be complete.

Additionally, it is noted that quite a number of the items of plant and machinery referred to in

the Schedule appear to relate to an earlier age of steam powered heavy industry.

Aside from this point, whilst it is understood that the form of the Schedule follows that which is being used in the equivalent England regulations, it is considered that the drafting is more difficult than it needs to be. E.g.

long lists of exceptions and long lists of complex definitions within Classes,

Classes by reference to Tables which, in some instances, transcend the Classes,

inclusion of "Accessories" by reference to a list which transcends Classes.

Definitions within paragraphs and in some instances definitions within definitions.

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