

1990 No. 1904

RATING AND VALUATION

**The Non-Domestic Rating (Payment of Interest)
Regulations 1990**

<i>Made - - - -</i>	<i>18th September 1990</i>
<i>Laid before Parliament</i>	<i>19th September 1990</i>
<i>Coming into force</i>	<i>10th October 1990</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 55(2) and (7), 143(1) and (2), and 146(6) of the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rating (Payment of Interest) Regulations 1990 and shall come into force on 10th October 1990.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“the Act” means the Local Government Finance Act 1988;

“the Alteration and Appeals Regulations” means the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1990(b);

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

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

“alteration” has the same meaning as it has in the same context in the Alteration and Appeals Regulations;

“effective date” means the date entered in the relevant list in accordance with the Alteration and Appeals Regulations;

“liability”, in relation to a person, means—

(a) his liability under section 43 or 45 of the Act in relation to the hereditament in question; or

(b) his liability under section 54 of the Act;

“overpayment” means any amount by which the total sums paid in the relevant period and in any earlier relevant period in or towards the discharge of a person’s liability as it was established at the time of the payment (whether for that or any such earlier period) exceeds his total liability (as established in consequence of the alteration) for the years in which those periods fall, disregarding, where the person has paid an amount in an earlier relevant period which exceeded his liability (as established as a consequence of the alteration) for the year in which that period fell, the excess;

(a) 1988 c.41; section 55 was amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 30.

(b) S.I. 1990/582; a relevant amending instrument is S.I. 1990/1822.

(c) S.I. 1989/2260.

(d) S.I. 1989/1058.

“repayment” means the payment or credit of an amount which falls to be repaid or credited pursuant to—

- (a) regulation 8(4) or (5)(b), 9(4) or 24(4)(a) of, or paragraph 6(4) or 7(5) of Schedule 1 to, the Local Lists Regulations;
- (b) regulation 8(4) or (5)(b) or 9(4) of, or paragraph 6(4) or 7(5) of the Schedule to, the Central Lists Regulations;
- (c) any provision of an agreement under regulation 7(3) of the Central Lists Regulations or the Local Lists Regulations to the like effect as any of those referred to in sub-paragraphs (a) and (b) above;

“repayment day” means the day on which a repayment is made;

“tribunal” means a valuation and community charge tribunal established by regulations under Schedule 11 to the Act;

“year” means chargeable financial year; and

“year of effective alteration” means the year in which the effective date of an alteration falls.

(2) For the purposes of these Regulations—

- (a) (i) the period commencing on 1 April of the year in which the repayment day falls and ending with the day immediately before that day is a relevant period if the person’s liability subsists for the whole of that period;
- (ii) where the person’s liability subsists only for part of the period commencing and ending as mentioned in sub-paragraph (i), that part is a relevant period;
- (iii) any other complete year within the period beginning with the first day of the year of effective alteration and ending on the day immediately preceding the repayment day is a relevant period if the person’s liability subsists for the whole of that year; and
- (iv) where the person’s liability subsists only for a part of such a year, that part is a relevant period; and
- (b) (i) any complete year within the period beginning with the day after the end of the relevant period and ending on the day immediately preceding the repayment day; and
- (ii) any remaining part of any other year within the period beginning and ending as aforesaid,

are each subsequent periods in relation to that relevant period.

Entitlement to interest

3.—(1) Where, in consequence of the alteration of a rating list compiled under Part III of the Act, a person is entitled to a repayment, the charging authority or, as the case may be, the Secretary of State shall, subject to paragraph (2), pay or credit (according to whether the repayment is to be repaid or credited) an additional amount by way of interest on the repayment in accordance with this regulation.

(2) Where a judgment or order described below was made in respect of the rates payable for the year which was, or included, the relevant period in relation to an overpayment, paragraph (1) does not apply in relation to such part of any repayment as is referable to that overpayment.

The judgments and orders referred to above are—

- (a) where the relevant hereditament is included in a central list, a judgment or order against the person in proceedings under regulation 10(1) of the Central Lists Regulations;
- (b) in any other case, a judgment or order as respects the hereditament under regulation 20(1) of the Local Lists Regulations or a liability order against the person as respects the hereditament under regulation 12 of those Regulations.

(a) By virtue of regulation 11 of S.I. 1989/2260, paragraph (4) of regulation 24 has effect as if the reference in that paragraph to Part II included a reference to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989.

(3) In a case to which regulation 24 of the Local Lists Regulations applies (whether by virtue of regulation 11 of the Central Lists Regulations or otherwise), "person" in paragraph (2) above refers only to the deceased.

(4) In the case of an alteration made in consequence of an order of a tribunal or the Lands Tribunal, nothing in paragraph (1) shall require the charging authority or the Secretary of State to pay an amount by way of interest before the period of 35 days beginning on the date of the making of that order has elapsed.

(5) In a case to which regulation 6 applies, the amount of any entitlement under this regulation shall be paid as soon as practicable after the application or appeal referred to in that regulation has been finally determined or treated as finally determined; and for this purpose an application or appeal shall be treated as finally determined—

- (a) in the case of an application, when the time within which an appeal may be brought against any further decision of the tribunal in consequence of the application has elapsed without such appeal having been made;
- (b) in the case of an appeal, when the time within which an appeal may be brought against the decision of the Lands Tribunal has elapsed without such appeal having been made.

(6) The additional amount referred to in paragraph (1) is—

- (a) in a case to which regulation 6 applies, the amount determined in accordance with that regulation; or
- (b) in any other case, the amount determined in accordance with regulation 5.

Rates of interest

4.—(1) For the purposes of these Regulations, the appropriate rate of interest for a year (or part of a year) means the rate equivalent to one percentage point less than the arithmetic mean of the base rates quoted by the four largest members of the Committee of London and Scottish Bankers ("the reference banks") and effective at close of business on the 15th March (or the next business day) of the preceding year; and if any of the reference banks fails to quote such a rate, the mean shall be determined by reference to the rates quoted by the other reference banks.

(2) For the purposes of paragraph (1)—

- (a) in calculating the rate a part of a whole (if any) shall be calculated to two decimal places only—
 - (i) adding one hundredth where (apart from this sub-paragraph) there would be more than five thousandths; and
 - (ii) ignoring the thousandths where (apart from this sub-paragraph) there would be five, or less than five, thousandths; and
- (b) the size of a bank shall be determined by reference to its total consolidated assets as shown in its last audited end-year accounts before the relevant 15th March.

Amount of payment

5. The additional amount payable by virtue of regulation 3 in a case to which regulation 6 does not apply shall be the amount ascertained—

- (a) where the repayment day falls within the year of effective alteration and liability subsists on the day before the repayment day, in accordance with the formula—

$$\frac{A \times B \times r}{2C \times 100} \text{ where—}$$

A is the amount of the overpayment in relation to the relevant period;

B is the number of days in that period;

C is the number of days in the year; and

r is the appropriate rate, expressed as a percentage;

- (b) in any other case, by aggregating the amounts ascertained—
(i) in respect of each relevant period, in accordance with the formula—

$$\frac{D \times E \times r}{2C \times 100} \text{ where—}$$

C and r have the same meaning as in sub-paragraph (a);

D is the amount of the overpayment in relation to the period in question; and

E is the number of days in that period; and

- (ii) in respect of each subsequent period, in accordance with the formula—

$$\frac{F \times G \times r}{C \times 100} \text{ where—}$$

C and r have the same meaning as in sub-paragraph (i);

F is the amount of the overpayment in relation to the relevant period to which the subsequent period in question relates; and

G is the number of days in the subsequent period in question.

Payment of interest—special cases

- 6.—(1) This regulation applies where a valuation officer—

(a) within 28 days of the making by a tribunal of a decision in consequence of which an order requiring the alteration of a list is made, makes an application under regulation 44(1) of the Alteration and Appeals Regulations in respect of the decision; or

(b) appeals under regulation 45(1) of those Regulations against any such decision or order.

- (2) The amount of any entitlement under regulation 3 in a case to which this regulation applies shall be calculated by aggregating—

(a) the amount determined, in accordance with regulation 5, in relation to the period beginning on the effective date and ending on the day before that on which a repayment is made in consequence of the alteration pursuant to the decision or order by virtue of which the provisions of this regulation apply; and

(b) the aggregate of the amounts determined, in respect of the period commencing on the day on which a repayment is made as mentioned in sub-paragraph (a) and ending immediately before the final adjustment day, in accordance with paragraph (3).

- (3) Amounts shall be determined, for the purposes of paragraph (2)(b)—

(a) in the case of each whole year, by applying to the amount referred to in paragraph (2)(a) the appropriate rate; and

(b) in respect of any period less than a whole year, in accordance with the formula—

$$\frac{H \times I \times r}{C \times 100} \text{ where—}$$

C and r have the same meaning as in regulation 5;

H is the amount referred to in paragraph (2)(a); and

I is the number of days in the period in question.

- (4) In this regulation “the final adjustment day” means the day on which the amount of any entitlement under regulation 3 is paid.

Signed by authority of the
Secretary of State for the Environment
17th September 1990

Michael Portillo
Minister of State,
Department of the Environment

18th September 1990

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the payment of interest in certain cases in which, in consequence of an alteration to a valuation list compiled under Part III of the Local Government Finance Act 1988 (non-domestic rating), an amount falls to be repaid or credited by a charging authority or the Secretary of State.

Regulation 3 prescribes the circumstances in which interest is payable and, in certain cases, the time at which payment is to be made.

Regulation 4 provides how rates of interest are to be determined. Regulation 5 specifies the way in which interest is to be calculated except where regulation 6 applies.

Regulation 6 makes special provision for certain cases in which a valuation officer applies to a valuation and community charge tribunal or appeals to the Lands Tribunal in respect of a decision or order requiring the alteration of a local or central non-domestic rating list.