

**2008 No. 2671 (W. 235)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
(Communications Hereditaments)  
(Valuation, Alteration of Lists and  
Appeals and Material Day) (Wales)  
Regulations 2008**

**EXPLANATORY NOTE**

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

The valuation of non-domestic hereditaments is governed by Schedule 6 to the Local Government Finance Act 1988 (“the 1988 Act”). The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 give ratepayers the right in certain circumstances to make a proposal to a valuation officer that the rateable value shown for their hereditament in a rating list should be changed. The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 govern the day by reference to which certain matters relating to the hereditament should be considered for the purposes of valuation.

These Regulations allow British Telecommunications (“BT”) to make a proposal to alter the rateable value of its hereditament as a consequence of the full unbundling of local loops. Fully unbundled local loops are the single pair of copper wires that connect a customer’s premises to the local telephone exchange through which the customer is receiving both telephone and broadband services. They comprise part of BT’s hereditament by virtue of regulation 8 of the Central Rating List (Wales) Regulations 2005.

The Regulations apply in relation to BT’s entry in the central rating list that came into force on 1 April 2005 and subsequent rating lists, with the effect that a proposal can be made with respect to entries from 1 April 2005 onwards. The power to make regulations containing provision as to the day from which an

alteration of a list is to have effect, including provision that the alteration is to have retrospective effect, is in section 55(6) of the 1988 Act.

When a proposal is made as a result of these Regulations, it will be for the valuation officer to assess whether the full unbundling of local loops has had any impact on the rateable value of BT's hereditament.

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Regulations 2008**

*Made* *6 October 2008*

*Laid before the National Assembly for Wales*

*8 October 2008*

*Coming into force* *31 October 2008*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by sections 55(2), (4) and (6), 143(1) and (2) and 146(6) of, and paragraph 2(6A) and (8) of Schedule 6 to, the Local Government Finance Act 1988(1) and now vested in the Welsh Ministers(2).

**PART 1**

**Preliminary**

**Title, application and commencement**

**1.—(1)** The title of these Regulations is The Non-Domestic Rating (Communications Hereditaments)

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- (1) 1988 c. 41. Section 55(4) and paragraph 2(8) of Schedule 6 were amended, and paragraph 2(6A) of Schedule 6 was inserted, by paragraphs 30(2), 38(8) and 38(6) respectively of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).
- (2) The powers of the Secretary of State were transferred, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): *see* the reference to the Local Government Finance Act 1988 in Schedule 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers under section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(Valuation, Alteration of Lists and Appeals and Material Day) (Wales) Regulations 2008.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 31 October 2008.

## Interpretation

### 2. In these Regulations—

“1988 Act” (“*Deddf 1988*”) means the Local Government Finance Act 1988;

“ALA Regulations” (“*Rheoliadau NRhA*”) means the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005(1);

“BT” means British Telecommunications plc;

“Central List Regulations” (“*Rheoliadau Rhestr Ganolog*”) means the Central Rating List (Wales) Regulations 2005(2);

“fully unbundled local loop” (“*dolen leol a ddadfwndelwyd yn llawn*”) means an unbundled local loop which BT has let or licensed to any person for all uses that comprise the monitoring, processing or transmission of communications or other signals for the provision of electronic communications services;

“the hereditament” (“*yr hereditament*”) means the hereditament described in regulation 8(1) of the Central List Regulations; and

“unbundled local loop” (“*dolen leol a ddadfwndelwyd*”) has the meaning given by regulation 8(5) of the Central List Regulations.

## PART 2

### Valuation

#### **Valuation of certain communications hereditaments**

3. The letting or licensing by BT to any person of a fully unbundled local loop is to be assumed for the purpose of valuing the hereditament pursuant to paragraph 2(5) or (6) of Schedule 6 to the 1988 Act (non-domestic rating: valuation) to be a matter affecting the physical state or physical enjoyment of the hereditament.

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(1) S.I. 2005/758(W63), to which there are amendments not relevant to these Regulations.

(2) S.I. 2005/422(W40), amended by S.I. 2008/ (W ); there are other amending instruments but none is relevant.

## PART 3

### Alteration of Lists and Appeals

#### **Material change of circumstances**

**4.**—(1) A proposal to alter the rateable value shown for the hereditament in a central rating list compiled on or after 1 April 2005 may be made under regulation 4(1)(b) (circumstances in which proposals may be made) and Part 3 (alteration of central rating lists) of the ALA Regulations as a consequence of the letting or licensing of a fully unbundled local loop by BT to any person.

(2) In relation to such a proposal, regulation 4(1)(b) of the ALA Regulations is to have effect as if “material change of circumstances” included the matter assumed by regulation 3 of these Regulations to affect the hereditament’s physical state or the physical enjoyment of it for the purpose of valuing it pursuant to paragraph 2(5) or (6) of Schedule 6 to the 1988 Act.

#### **Modification of regulation 6 of the ALA Regulations**

**5.** Where a proposal is made pursuant to regulation 4(1), regulation 6(1)(e)(ii) of the ALA Regulations is to have effect as if it also required the inclusion of a statement specifying the number of fully unbundled local loops that are comprised in the hereditament as at the effective date proposed in that proposal.

## PART 4

### Material Day

#### **Material day for valuation**

**6.** Regulation 3(7)(b)(i) of the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992(1) is to have effect, in relation to a proposal made pursuant to regulation 4(1) of these Regulations, as if the material day in relation to any particular fully unbundled local loop were the day on which BT let or licensed it.

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(1) S.I. 1992/556, amended by S.I. 2005/758(W63); there are other amending instruments but none is relevant.

*Brian Gibbons*

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

6 October 2008