

2005 No.127

RATING AND VALUATION

**The Non-Domestic Rating (Valuation of Utilities) (Scotland)
Order 2005**

<i>Made</i> - - - -	<i>2nd March 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>3rd March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 6A(1)(aa) of the Valuation and Rating (Scotland) Act 1956(a) and section 27(6A), (6B) and (6C) of the Local Government etc. (Scotland) Act 1994(b) and of all other powers enabling them in that behalf, and after consultation with such associations of local authorities and such other persons as they think appropriate in accordance with section 6A(1D) of the Valuation and Rating (Scotland) Act 1956(c) and section 27(6D) of the Local Government etc. (Scotland) Act 1994, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Non-Domestic Rating (Valuation of Utilities) (Scotland) Order 2005 and shall come into force on 1st April 2005.

(2) In this Order—

“office premises” means any lands and heritages constructed or adapted as offices or for office purposes, or used wholly or mainly for such purposes;

“office purposes” includes the purposes of administration and clerical work and handling of money;

“the Valuation Acts” means the Lands Valuation (Scotland) Act 1854(d), the Acts amending that Act, and any other enactment relating to valuation.

(3) Any reference in this Order to—

(a) lands and heritages occupied by a person includes a reference to lands and heritages which, if unoccupied, are owned by that person; and

(b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next used, they will be used for such a purpose.

(a) 1956 c.60; section 6A(1)(aa) was inserted by section 32(1)(a) of the Local Government in Scotland Act 2003 (asp 1). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1994 c.39; sub-sections (6A)-(6D) were inserted by section 32(2)(a) of the Local Government in Scotland Act 2003 (asp 1).

(c) Section 6A(1D) was inserted by section 32(1)(b) of the Local Government in Scotland Act 2003 (asp 1).

(d) 1854, c.91.

(4) Unless otherwise expressly provided, any reference in this Order to a numbered article or schedule is to the article or, as the case may be, schedule bearing that number in this Order and any reference in an article to a numbered paragraph is to the paragraph bearing that number in that article.

Electricity Generation

2.—(1) Any lands and heritages which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for South Lanarkshire if they are—

- (a) lands and heritages occupied by a Company and wholly or mainly used for the purposes of the generation of electricity or for ancillary purposes; or
- (b) lands and heritages occupied by a Company and wholly or mainly used or available for use for the purposes of the generation of electricity or for ancillary purposes, where—
 - (i) they are wholly or mainly so used or available for use in connection with a scheme for the production for sale of both electrical power and heat; or
 - (ii) the primary source of energy in such generation is either the burning of refuse, or the use of wind, wave, water or tidal power.

(2) In this article—

“a Company”—

- (a) for the purposes of paragraph (1)(a) means a Scottish electricity company; and
- (b) for the purposes of paragraph (1)(b) means any person carrying on an undertaking and includes a Scottish electricity company;

“Scottish electricity company” means—

- (a) Scottish Power UK plc;
- (b) Scottish and Southern Energy plc;
- (c) British Energy Generation (UK) Limited;
- (d) Scottish Power Generation Limited; or
- (e) SSE Generation Limited; and

“undertaking” means an undertaking for the generation of electricity.

Electricity Transmission and Distribution

3.—(1) Any lands and heritages which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for South Lanarkshire if they are—

- (a) lands and heritages occupied by a Company and wholly or mainly used for the purposes of the distribution of electricity or for ancillary purposes; or
- (b) lands and heritages occupied by a Company and wholly or mainly used for the purposes of the transmission of electricity or for ancillary purposes.

(2) In this article—

“a Company”—

- (a) for the purposes of paragraph (1)(a) means—
 - (i) Scottish Power UK plc;
 - (ii) Scottish and Southern Energy plc;
 - (iii) SP Distribution Limited;
 - (iv) Scottish Hydro-Electric Power Distribution Limited; or
 - (v) SP Power Systems Limited; and

- (b) for the purposes of paragraph (1)(b) means–
 - (i) Scottish Power UK plc;
 - (ii) Scottish and Southern Energy plc;
 - (iii) SP Transmission Limited; or
 - (iv) Scottish Hydro-Electric Transmission Limited.

Gas

4.—(1) Any lands and heritages (other than the lands and heritages mentioned in paragraph (2)) which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for West Dunbartonshire if they are occupied by Transco plc and used for any of the purposes of production, treatment, transmission, distribution or storage of gas, including plant and equipment installed therein or thereon and, without prejudice to the foregoing generality, gas terminals, gas research stations, pressure reduction stations, governor stations, holder stations, mains, services and radio stations, insofar as any of them is used for any of the foregoing purposes.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising premises used wholly or mainly as liquefied natural gas storage facilities.

(3) In this article–

“gas” means any substance which is, or if it were in a gaseous state would be, gas within the meaning of Part I of the Gas Act 1986(a); and

“services” means the pipe and other apparatus installed for each consumer between the distribution mains and the consumer’s gas meter.

Water

5. Any lands and heritages which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for Fife if they are occupied by Scottish Water(b) and wholly or mainly used for the purposes of the supply of water carried on by it.

Docks and Harbours

6.—(1) Any lands and heritages (other than the lands and heritages mentioned in paragraph (2)) which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for Falkirk if they are occupied by an authority and used for the purposes of the undertaking carried on by that authority.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising–

(a) a dock or harbour where the relevant income of the undertaking–

- (i) in any accounting period of twelve months ending during the year ending with 31st March 2003;
- (ii) in a case to which sub-sub-paragraph (i) above does not apply and there is an accounting period of any other length which ends in that year, in the period of twelve months which ends with the last day of the last such accounting period; or
- (iii) in any other case in the twelve months ending with 31st March 2003,

was not more than £1,000,000;

(a) 1986 c.44.

(b) Scottish Water was established by section 20 of the Water Industry (Scotland) Act 2002 (asp 3).

- (b) a dock or harbour used by an authority exclusively or mainly for the purpose of bringing or receiving goods of any one or more of the following descriptions:–
 - (i) goods which have been manufactured or produced by that authority or an associated body;
 - (ii) goods which are to be used by that authority or an associated body for the manufacture or production of goods or electricity;
 - (iii) goods which are to be sold by that authority or an associated body; or
- (c) premises occupied by an authority which do not consist exclusively of operational land.

(3) In this article–

“associated body” means an associated body of an authority and shall be construed in accordance with paragraph (4);

“an authority” means any person who carries on, under authority conferred by or under any enactment, a dock or harbour undertaking;

“operational land”, in relation to an authority, means land which is used for the purposes of carrying on the authority’s undertaking, not being land which, in respect of its nature and situation, is comparable with land in general rather than with land which is used for the purposes of carrying on of statutory undertakings (within the meaning of section 214 of the Town and Country Planning (Scotland) Act 1997(a));

“relevant income”, in relation to an undertaking and a period, means all income by way of revenue included or falling to be included in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on in respect of a prescribed class of lands and heritages or otherwise, other than–

- (a) income in respect of pilotage;
- (b) income from–
 - (i) investments required to be shown in the accounts of the authority (other than investments in subsidiary companies);
 - (ii) loans or deposits;
 - (iii) rent or other payments receivable in consideration of the grant of permission for occupation or use of any property of the authority, or right over such property, which is or forms part of lands and heritages shown on any valuation roll; and
- (c) any sum receivable in respect of the disposal of land; and

“undertaking” means a dock or harbour undertaking carried on, by or under, any enactment by an authority.

(4) For the purposes of this article, a body shall be treated as the associated body of an authority if–

- (a) it is a body corporate in relation to which that authority directly or indirectly owns or controls not less than 51 per cent of its issued share capital; or
- (b) it is a body corporate in relation to which that authority and any other associated body or bodies of that authority directly or indirectly own or control not less than 51 per cent of its issued share capital.

Railways

7.—(1) Any lands and heritages (other than the lands and heritages mentioned in paragraph (2)) which would (apart from this Order) be treated as justifying separate entries in two or more valuation rolls shall be treated for all purposes of the Valuation Acts as justifying only one entry in the valuation roll for Highland if they are–

- (a) occupied by Network Rail Infrastructure Limited; or

(a) 1997 c.8.

- (b) leased or licensed by Network Rail Infrastructure Limited to either—
 - (i) a licence exempt operator or a licence holder, and the tenant, licensee or British Transport Police Authority occupies the lands or heritages; or
 - (ii) the British Transport Police Authority, and it occupies the lands or heritages;

and in either of cases (a) or (b) are used wholly or mainly for railway purposes.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising—

- (a) premises used as a shop, hotel, museum or place of public refreshment;
- (b) premises used wholly or mainly as office premises which are not situated on operational land of Network Rail Infrastructure Limited, a licence exempt operator or a licence holder;
- (c) premises (other than premises used in connection with the collection and delivery of parcels, goods or merchandise conveyed or to be conveyed by rail) used wholly or in part for purposes concerned with the carriage of goods or passengers by road transport or sea transport or with harbours, or for purposes incidental to such purposes;
- (d) premises used for more than one of the foregoing purposes; or
- (e) premises or rights so let out as to be capable of separate assessment, other than premises which fall within article 7(1)(b).

(3) The lands and heritages described in paragraph (1) shall be treated as being occupied by Network Rail Infrastructure Limited.

(4) In this article—

“the 1993 Act” means the Railways Act 1993(a);

“clerical work” includes writing, book-keeping, typing, filing, duplicating, sorting papers or information, calculating (whether by manual, mechanical or electronic means), drawing, and the editorial preparation of matter for publication;

“licence exempt operator” and “licence holder” have the meanings given by section 10(6) and section 83(1) respectively of the 1993 Act;

“operational land”, in relation to Network Rail Infrastructure Limited, a licence exempt operator or a licence holder, means land which is used for the purposes of carrying on the undertaking of that person, not being land which, in respect of its nature and situation, is comparable rather with land in general which is used for the purposes of carrying on of statutory undertakings (within the meaning of section 214 of the Town and Country Planning (Scotland) Act 1997(b));

“railway purposes” means the purposes of providing railway services or for purposes ancillary to those purposes (including the purposes of providing police services or exhibiting advertisements); and

“railway services” has the meaning given in section 82(1) of the 1993 Act.

Designated assessors for the valuation of utilities

8.—(1) The assessor appointed by each of the joint boards or valuation authorities listed in column 1 of the Schedule to these Regulations is hereby designated as the assessor who shall value the lands and heritages referred to in the corresponding entry in column 2 of the Schedule.

(2) In this article “joint board” means a valuation joint board established under article 2(1) of the Valuation Joint Boards (Scotland) Order 1995(c).

(a) 1993 c.43.

(b) 1997 c.8.

(c) S.I. 1995/2589. Where valuation joint boards have been established under article 2(1) of that order, the function of appointing assessors under section 27 of the Local Government etc. (Scotland) Act 1994 was delegated from the constituent authorities to those valuation joint boards by article 2(2) of that order.

Powers of assessors

9. An assessor designated to value lands and heritages under article 8 shall, for the purposes of giving effect to this Order, have such powers in relation to each valuation area in which there is situated lands and heritages to be valued in pursuance of this Order as that assessor has in relation to the area of the joint board or valuation authority which appointed that assessor.

Appeals and complaints

10.—(1) A valuation appeal committee constituted in relation to the area of the joint board or valuation authority which appointed the assessor designated to value lands and heritages under article 8 may hear and determine appeals and complaints under the Valuation Acts in relation to the assessment by that assessor of the lands and heritages valued by virtue of this Order.

(2) In this article “valuation appeal committee” means a valuation appeal committee constituted under section 29(1) of the Local Government etc. (Scotland) Act 1994(a).

TOM McCABE

A member of the Scottish Executive

St Andrew's House,
Edinburgh
2nd March 2005

(a) 1994 c.39.

SCHEDULE

Article 8

DESIGNATED ASSESSORS FOR THE VALUATION OF UTILITIES

<i>Column 1</i> <i>Name of Assessor</i>	<i>Column 2</i> <i>Lands and heritages of Utilities</i>
Assessor for the Lanarkshire Valuation Joint Board	The lands and heritages specified in articles 2 and 3 (Electricity).
Assessor for the Dunbartonshire and Argyll and Bute Valuation Joint Board	The lands and heritages specified in article 4 (Gas).
Assessor for Fife Council	The lands and heritages specified in article 5 (Water).
Assessor for the Central Scotland Valuation Joint Board	The lands and heritages specified in article 6 (Docks and Harbours).
Assessor for the Highland and Western Isles Valuation Joint Board	The lands and heritages specified in article 7 (Railways).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order puts in place a new regime for the valuation of certain utilities whose values were previously prescribed in various orders made under section 6 of the Local Government (Scotland) Act 1975. This Order designates particular assessors to value the lands and heritages for each utility covered by the Order.

Articles 2 to 7 specify the lands and heritages to be valued within each of the utilities and treated as a single entry in the valuation roll for the area specified in each article.

Article 8 and the Schedule designate assessors to value the lands and heritages of each of the utilities specified in articles 2 to 7.

Article 9 provides that an assessor designated under article 8 shall have equivalent powers in relation to each valuation area in which there are lands and heritages to be valued in pursuance of the Order to those that assessor has in relation to the area of the joint board or valuation authority which appointed that assessor.

Article 10 states that a valuation appeal committee constituted in relation to the area of the joint board or valuation authority which appointed the assessor designated under article 8 may hear and determine appeals and complaints under the Valuation Acts in relation to assessments made by virtue of the Order.

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