

*Draft Order laid before Parliament under section 143(8) of the Local Government Finance Act 1988
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2000 No.

RATING AND VALUATION, ENGLAND

**The Docks and Harbours (Rateable
Values) (England) Order 2000**

<i>Made</i>	- - - -	2000
<i>Coming into force</i>		
<i>for all purposes other than those of article 5</i>		2000
<i>for the purposes of article 5</i>		1st April 2000

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by section 143(1) and (2) of, and paragraph 3(1), (3) and (4) of Schedule 6 to, the Local Government Finance Act 1988(1), and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before, and approved by resolution of, each House of Parliament:

Citation, commencement and extent

1. This Order, which extends to England only, may be cited as the Docks and Harbours (Rateable Values) (England) Order 2000 and shall come into force—

- (a) for all purposes other than those of article 5, on the day after the day on which it is made; and
- (b) for the purposes of article 5, on 1st April 2000.

Interpretation

2. In this Order—

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

(1) 1988 c. 41. See section 146(6) for the definition of “prescribed”. Section 143(2) is amended by paragraph 72(2) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 3(1) of Schedule 6 is amended, and paragraphs 3(3) and 3(4) inserted, by paragraph 38(12) and (14) of Schedule 5 to the 1989 Act. These powers are devolved, 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.

“accounting period” in relation to an undertaking means the period by reference to which the accounts relating to the undertaking are compiled;

“adjusted balance” in relation to an undertaking and a period means 92.5 per cent of the adjusted income of the undertaking for the period less 100 per cent of its adjusted expenditure for the period;

“adjusted expenditure” in relation to an undertaking and a period, means the amount of relevant expenditure of the undertaking for the period multiplied by

PY

, and

“adjusted income” in relation to an undertaking and a period means the amount of relevant income of the undertaking for that period multiplied by

PY,

where—

- a P is the retail prices index for September 1997, and
- b Y is the retail prices index for the September falling during the period in question, unless the base month for the index for that September differs from the base month for the index for September 1997, in which case Y is the figure calculated for the purposes of paragraph 5(5) of Schedule 7 to the 1988 Act as the figure which would have been the index for the September falling during the period if the base month for the index had been the same in both cases;

“conservancy functions” means functions conferred by or under any enactment for the conservation, maintenance or improvement of the navigation of a tidal water;

“relevant balance” in relation to an undertaking and a period means 92.5 per cent of the relevant income of that undertaking for the period, less 100 per cent of its relevant expenditure for the period;

“relevant expenditure” in relation to an undertaking and a period means all expenditure 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 under the authority referred to in article 3(1)(a) or otherwise, other than—

- (a) expenditure in respect of pilotage;
- (b) expenditure—
 - (i) in relation to investments required to be shown in the accounts of the undertaking (other than expenditure in relation to investments in subsidiary companies);
 - (ii) consisting of or relating to interest payable in respect of borrowing;
 - (iii) consisting of payments for, or in connection with, the management of property which is let out and which is or forms part of either a hereditament shown on any non-domestic rating list or a dwelling which is shown on any valuation list maintained under Part I of the Local Government Finance Act 1992;
- (c) expenditure incurred in respect of the disposal of land;
- (d) expenditure incurred in connection with the exercise of conservancy functions; and
- (e) amounts written off in respect of depreciation;

“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 under the authority referred to in article 3(1)(a) or otherwise, but excluding—

- (a) income in respect of pilotage;
- (b) income from—
 - (i) investments required to be shown in the accounts of the undertaking (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 undertaking, or rights over such property, which is or forms part of either a hereditament which is shown on any non-domestic rating list or a dwelling which is shown on any valuation list maintained under Part I of the Local Government Finance Act 1992;
- (c) any sum receivable in respect of the disposal of land; and
- (d) an amount equal to any amount deducted in accordance with paragraph (d) of the definition of relevant expenditure (expenditure incurred in connection with the exercise of conservancy functions);

“retail prices index” has the meaning given by paragraph 5(8) of Schedule 7 to the 1988 Act⁽²⁾;

“subsidiary” has the meaning given by section 736 of the Companies Act 1985⁽³⁾;

“year” means a chargeable financial year; and in relation to any year “relevant preceding year” means the year ending immediately before the year in question.

Application

3.—(1) This Order applies, except in the cases described in paragraphs (2) to (4)—

- (a) to any hereditament which consists of a dock or harbour undertaking carried on under authority conferred by or under any enactment, and
- (b) in relation to a local non-domestic rating list (the “relevant list”) compiled on 1st April 2000 in which such a hereditament falls to be shown.

(2) This Order does not apply—

- (a) where the relevant income of the dock or harbour undertaking was not more than £1,000,000—
 - (i) in any accounting period of twelve months ending during the year ending with 31st March 1998, or, if there is none,
 - (ii) if 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, if there is none,
 - (iii) in the twelve months ending with 31st March 1998; or
- (b) where the persons carrying on the dock or harbour undertaking use the dock or harbour exclusively or mainly for the purpose of bringing or receiving goods—
 - (i) manufactured or produced by them; or
 - (ii) to be used by them for the manufacture or production of goods or electricity; or
 - (iii) to be sold by them; or
 - (iv) manufactured or produced by an associated body, and to be sold by that body.

(3) For the purposes of paragraph (2)(b), a body shall be treated as the associated body of any persons if—

⁽²⁾ Paragraph 5(8) was amended by the Transfer of Functions (Economic Statistics) Order 1989 (S.I. 1989/992).

⁽³⁾ 1985 c. 6. Section 736 was substituted by section 144(1) of the Companies Act 1989 c. 40.

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

(4) Other than for the purposes of the calculation of relevant income or relevant expenditure, this Order does not apply to a hereditament occupied by the persons carrying on a dock or harbour undertaking which does not consist exclusively of operational land.

(5) In paragraph (4), “operational land” means land which is used for the purpose of the carrying on of the undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purpose of carrying on statutory undertakings (within the meaning of the Town and Country Planning Act 1990(4)).

Rateable values

4.—(1) Paragraphs 2 to 2C of Schedule 6 to the 1988 Act(5) shall not apply to any hereditament to which this Order applies; and the rateable value of any such hereditament shall be determined in accordance with this article.

(2) Subject to paragraphs (4) and (5), the rateable value of any hereditament to which this order applies for the year beginning on 1st April 2000 shall be an amount equal to 27.5 per cent of the relevant balance of the undertaking for—

- (a) an accounting period of twelve months ending during the year ending with 31st March 1998, or, if there is none,
- (b) if there is an accounting period of any other length which ends in that year, the period of twelve months which ends with the last day of the last such accounting period, or, if there is none,
- (c) the twelve months ending with 31st March 1998.

(3) Subject to paragraphs (4) to (6), for any subsequent year for which the relevant list has effect the rateable value of any hereditament to which this order applies shall be an amount equal to 27.5 per cent of the adjusted balance of the undertaking for—

- (a) an accounting period of twelve months ending during the relevant preceding year, or, if there is none,
- (b) if there is an accounting period of any other length which ends in the relevant preceding year, the period of twelve months which ends with the last day of the last such accounting period, or, if there is none,
- (c) the relevant preceding year.

(4) Where in relation to a year and an undertaking the amount equal to 27.5 per cent of X is greater than 13 per cent of Z, paragraph (2) or, as the case may be, paragraph (3) shall not apply, and the rateable value for that year shall be equal to 13 per cent of Z.

(5) Where in relation to a year and an undertaking the amount equal to 27.5 per cent of X is less than 5 per cent of Z, paragraph (2) or, as the case may be, paragraph (3) shall not apply, and the rateable value for that year shall be equal to 5 per cent of Z.

(6) Where in relation to a year beginning on or after 1st April 2001 and an undertaking the rateable value determined under paragraph (3), or, as the case may be, paragraph (4) or (5), would

(4) 1990 c. 8.

(5) Paragraph 2 is amended by, and paragraph 2A and 2B inserted by, paragraph 38(3) to (11) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 2C is inserted by section 2 of the Local Government and Rating Act 1997 (c. 29).

differ from the rateable value for the relevant preceding year by no more than 20 per cent of that rateable value, the paragraph in question shall not apply, and the rateable value for that year shall be the same as the rateable value for the relevant preceding year.

(7) For the purposes of paragraphs (4) and (5)—

- (a) X for the year beginning on 1st April 2000 is the relevant balance and for subsequent years is the adjusted balance;
- (b) Z for the year beginning on 1st April 2000 is the relevant income and for subsequent years is the adjusted income;
- (c) X and Z shall be computed for the year beginning on 1st April 2000 for the period described in paragraph (2)(a) or, if there is no such period, for the period described in paragraph (2)(b) or, if there is no such period, for the period described in paragraph (2)(c);
- (d) X and Z shall be computed for subsequent years for the period described in paragraph (3)(a) or, if there is no such period, for the period described in paragraph (3)(b) or, if there is no such period, for the period described in paragraph (3)(c).

(8) Where (apart from this paragraph) any rateable value determined under this article would include a fraction of a pound—

- (a) if the fraction would exceed 50p it shall be made up to one pound, and
- (b) if the fraction would be 50p or less it shall be ignored.

Revocations and savings

5.—(1) Subject to paragraph (2), the following are hereby revoked—

- (a) the Docks and Harbours (Rateable Values) Order 1989⁽⁶⁾;
- (b) the Docks and Harbours (Rateable Values) (Amendment) Order 1994⁽⁷⁾.

(2) Without prejudice to section 16(1) of the Interpretation Act 1978⁽⁸⁾, the Orders mentioned in paragraph (1) shall continue to have effect on and after 1st April 2000 for the purposes of, and for purposes connected with—

- (a) any alteration of a local non-domestic rating list compiled before 1st April 2000; or
- (b) any provision made by regulations under section 58⁽⁹⁾ (special provision for 1995 onwards) of the 1988 Act as to the chargeable amount as regards a hereditament for a relevant period as defined in that section.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Minister of State,
Department of the Environment, Transport and
the Regions

2000

⁽⁶⁾ S.I. 1989/2473, amended by S.I. 1994/3280.

⁽⁷⁾ S.I. 1994/3280.

⁽⁸⁾ 1978 c. 30.

⁽⁹⁾ Section 58 is amended by paragraph 68 of Scheduel 13 to the Local Government Finance Act 1992 (c. 14), section 2 of the Non-Domestic Rating Act 1994 (c. 3) and section 1 of the Local Government and Rating Act 1997 (c. 29). Regulations under section 58 are S.I. 1994/3279, 1995/961, 1678 and 3322, 1996/911 and 3214, 1997/960 and 3017, 1999/3379 and 2000/.

EXPLANATORY NOTE

(This note is not part of the Order)

Where the Secretary of State so provides by order under paragraph 3(1) of Schedule 6 to the Local Government Finance Act 1988, hereditaments of any class are not to be valued for non-domestic rating on the basis set out in paragraph 2 to 2C of that Schedule (that is to say, by reference to the rent a hypothetical tenant would pay for the hereditament on an annual basis), but on the basis of rules set out in the order.

By article 3 of this Order the rateable value of hereditaments in England which consist of dock or harbour undertakings carried on under the authority of any enactment is to be determined on the basis of rules set out in article 4, except in the case of certain small undertakings, essentially those with a relevant income of less than £1,000,000 in 1998, and docks and harbours wholly or mainly used by the person operating them or by associated persons for their own purposes.

Article 4 provides that the rateable value of such hereditaments for a chargeable financial year is to be calculated by reference to 27.5 per cent of the balance between an amount for the income and an amount for the expenditure of the undertaking (where both amounts are calculated in accordance with the Regulations), subject to a threshold.

Article 5 revokes, with savings, the provisions of the Docks and Harbours (Rateable Values) Order 1989, which applied, as amended, in respect of the local non-domestic rating lists for England compiled on 1st April 1990 and 1st April 1995.