



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART III

#### NON-DOMESTIC RATING

##### *Interpretation*

#### **64 Hereditaments**

- (1) A hereditament is anything which, by virtue of the definition of hereditament in section 115(1) of the 1967 Act, would have been a hereditament for the purposes of that Act had this Act not been passed.
- (2) In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and—
  - (a) the right is let out or reserved to any person other than the occupier of the land, or
  - (b) where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.
- (3) The Secretary of State may make regulations providing that in prescribed cases—
  - (a) anything which would (apart from the regulations) be one hereditament shall be treated as more than one hereditament;
  - (b) anything which would (apart from the regulations) be more than one hereditament shall be treated as one hereditament.
- (4) A hereditament is a relevant hereditament if it consists of property of any of the following descriptions—
  - (a) lands;
  - (b) coal mines;
  - (c) mines of any other description, other than a mine of which the royalty or dues are for the time being wholly reserved in kind;

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) any right of sporting (that is, any right of fowling, of shooting, of taking or killing game or rabbits, or of fishing) when severed from the occupation of the land on which the right is exercisable;
  - (e) any right which is a hereditament by virtue of subsection (2) above.
- (5) Subsection (6) below applies in the case of a hereditament provided and maintained by an authority mentioned in subsection (7) below for purposes connected with the administration of justice, police purposes or other Crown purposes.
- (6) Any rules as to Crown exemption which would have applied apart from this subsection shall not—
- (a) detract from any duty to show the hereditament in a local or central non-domestic rating list,
  - (b) prevent a person being subject to a non-domestic rate as regards the hereditament under section 43, 45 or 54 above, or
  - (c) prevent the person being liable to pay in respect of the rate.
- (7) The authorities are—
- (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council,
  - (e) a metropolitan county police authority, and
  - (f) the Northumbria Police Authority.
- (8) A hereditament is non-domestic if either—
- (a) it consists entirely of property which is not domestic, or
  - (b) it is a composite hereditament.
- (9) A hereditament is composite if part only of it consists of domestic property.
- (10) A hereditament shall be treated as wholly or mainly used for charitable purposes at any time if at the time it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of sale of the goods (after any deduction of expenses) are applied for the purposes of a charity.
- (11) In subsection (2) above “land” includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

## **65 Owners and occupiers**

- (1) The owner of a hereditament or land is the person entitled to possession of it.
- (2) Whether a hereditament or land is occupied, and who is the occupier, shall be determined by reference to the rules which would have applied for the purposes of the 1967 Act had this Act not been passed (ignoring any express statutory rules such as those in sections 24 and 46A of that Act).
- (3) Subsections (1) and (2) above shall have effect subject to subsections (4) to (9) below.
- (4) Regulations under section 64(3) above may include rules for ascertaining—
  - (a) whether the different hereditaments or the one hereditament (as the case may be) shall be treated as occupied or unoccupied;

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) who shall be treated as the owner or occupier of the different hereditaments or the one hereditament (as the case may be).
- (5) A hereditament which is not in use shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of there being kept in or on the hereditament plant, machinery or equipment—
  - (a) which was used in or on the hereditament when it was last in use, or
  - (b) which is intended for use in or on the hereditament.
- (6) A hereditament shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of—
  - (a) the use of it for the holding of public meetings in furtherance of a person's candidature at a parliamentary or local government election, or
  - (b) if it is a house, the use of a room in it by a returning officer for the purpose of taking the poll in a parliamentary or local government election.
- (7) In subsection (6) above "returning officer" shall be construed in accordance with section 24 or 35 of the Representation of the People Act 1983 (as the case may be).
- (8) A right which is a hereditament by virtue of section 64(2) above shall be treated as occupied by the person for the time being entitled to the right.
- (9) A right of sporting shall be treated as occupied by the owner of the right, whether or not it is let; and "owner" here means the person who is entitled to receive rent (if the right is let) or to exercise the right to let (if the right is not let).

## **66 Domestic property**

- (1) Property is domestic if—
  - (a) it is used wholly for the purposes of living accommodation,
  - (b) it is a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property falling within paragraph (a) above,
  - (c) it is a private garage used wholly or mainly for the accommodation of a private motor vehicle, or
  - (d) it is private storage premises used wholly or mainly for the storage of articles of domestic use.
- (2) But property is not domestic property if it is wholly or mainly used in the course of a business for the provision to individuals whose sole or main residence is elsewhere of accommodation for short periods together with domestic or other services or other benefits or facilities.
- (3) A pitch for a caravan is domestic property if one or both of the following conditions is fulfilled—
  - (a) it is part of a site which is a protected site;
  - (b) it is occupied by a caravan which is the sole or main residence of an individual (construing sole or main residence in accordance with section 2 above).
- (4) A mooring is domestic property if it is occupied by a boat which is the sole or main residence of an individual (construing sole or main residence in accordance with section 2 above).
- (5) Property not in use is domestic if it appears that when next in use it will be domestic.

---

*Status: This is the original version (as it was originally enacted).*

---

- (6) In applying subsection (5) above no assumption may be made that a site which is not a protected site will become one.
- (7) Whether anything is a caravan shall be construed in accordance with Part I of the Caravan Sites and Control of Development Act 1960.
- (8) Whether a site is a protected site shall be construed in accordance with Part I of the Caravan Sites Act 1968.
- (9) The Secretary of State may by order amend, or substitute another definition for, any definition of domestic property for the time being effective for the purposes of this Part.

**67 Interpretation: other provisions**

- (1) Unless the context otherwise requires, references to lists are to local and central non-domestic rating lists.
- (2) Unless the context otherwise requires, references to valuation officers are to valuation officers for charging authorities and the central valuation officer.
- (3) A right or other property is a hereditament on a particular day if (and only if) it is a hereditament immediately before the day ends.
- (4) A hereditament is relevant, non-domestic, composite, unoccupied or wholly or partly occupied on a particular day if (and only if) it is relevant, non-domestic, composite, unoccupied or wholly or partly occupied (as the case may be) immediately before the day ends.
- (5) For the purpose of deciding the extent (if any) to which a hereditament consists of domestic property on a particular day, or is exempt from local non-domestic rating on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.
- (6) A person is the owner, or in occupation of all or part, of a hereditament on a particular day if (and only if) he is its owner or in such occupation (as the case may be) immediately before the day ends.
- (7) A relevant provision applies on a particular day if (and only if) it applies immediately before the day ends; and for this purpose relevant provisions are sections 43(6), 45(6) and 47(2) above.
- (8) For the purpose of deciding what is shown in a list for a particular day the state of the list as it has effect immediately before the day ends shall be treated as having been its state throughout the day; and “effect” here includes any effect which is retrospective by virtue of an alteration of the list.
- (9) A hereditament shall be treated as shown in a central non-domestic rating list for a day if on the day it falls within a class of hereditament shown for the day in the list; and for this purpose a hereditament falls within a class on a particular day if (and only if) it falls within the class immediately before the day ends.
- (10) A charity is an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only.
- (11) The 1967 Act is the General Rate Act 1967.

- (12) Nothing in a private or local Act passed before this Act shall have the effect that a hereditament is exempt as regards non-domestic rating, or prevent a person being subject to a non-domestic rate, or prevent a person being designated or a description of hereditament being prescribed under section 53 above.
- (13) This section and sections 64 to 66 above apply for the purposes of this Part.