
STATUTORY INSTRUMENTS

1988 No. 1477 (S.143)

RATING AND VALUATION

The Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1988

<i>Made</i>	- - - -	<i>22nd August 1988</i>
<i>Laid before Parliament</i>		<i>24th August 1988</i>
<i>Coming into force</i>	- -	<i>15th September 1988</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 2(2A) and (4), 5(6), 26(1) and 31(3) of, and paragraphs 1 and 2 of Schedule 1 to, the Abolition of Domestic Rates Etc. (Scotland) Act 1987(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1988 and shall come into force on 15th September 1988.

Interpretation

2. In these Regulations—

“the Act” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“the 1968 Act” means the Social Work (Scotland) Act 1968(2);

“caravan” has the same meaning as it has for the purposes of Part 1 of the Caravan Sites and Control of Development Act 1960(3);

“hostel” means an establishment in which residential accommodation is provided and which is—

(1) 1987 c. 47; subsection (2A) of section 2 was inserted by, and subsection (4) of that section was substituted by, the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 15(2) and (3) respectively; section 26(1) contains in paragraph (b) of the definition of “part residential subjects” a power of prescription, and contains also a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) 1968 c. 49

(3) 1960 c. 62

- (a) managed by a housing association registered for the time being in a register maintained under section 3 of the Housing Associations Act 1985⁽⁴⁾; or
- (b) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a Government department or agency or a local authority; or
- (c) managed by a voluntary organisation,

where the sole or main function of the establishment is to provide personal care or support, combined with board, to persons who are solely or mainly resident in the establishment;

“nursing home” means—

- (a) a nursing home within the meaning of section 10(2) of the Nursing Homes Registration (Scotland) Act 1938⁽⁵⁾ in respect of which a person is registered; or
- (b) any premises in respect of which an exemption has been granted under section 6 or 7 of that Act;

“personal care” includes the provision of appropriate help with physical and social needs;

“private hospital” means a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984⁽⁶⁾ which is registered under that Act;

“private motor vehicle” means a mechanically propelled vehicle not falling within Schedules 2, 3 and 4 to the Vehicles (Excise) Act 1971⁽⁷⁾;

“residential care home” means—

- (a) a residential establishment provided and maintained by a local authority in respect of the functions under section 27 of the National Health Service (Scotland) Act 1947⁽⁸⁾ transferred to them by section 1(4)(c) of the 1968 Act; or
- (b) a residential establishment to which Part IV of the 1968 Act applies; or
- (c) residential accommodation provided and maintained by a local authority under section 7 of the Mental Health (Scotland) Act 1984;

where the sole or main function of the establishment or accommodation is to provide personal care or support, combined with board, to persons who are solely or mainly resident in the establishment or accommodation;

“support” means counselling or other help provided as part of a planned programme of care;

“voluntary organisation” has the meaning given by section 94(1) of the 1968 Act.

DOMESTIC SUBJECTS

Variation of definition of domestic subjects-inclusions

3.—(1) For the purposes of section 2(4) of the Act, the definition of domestic subjects in section 2(3) of the Act⁽⁹⁾ is varied by including within that definition the following classes of lands and heritages and parts thereof, namely—

- (a) private car parking premises, being lands and heritages which are a garage, a carport or, as the case may be, a car parking stance—

(4) 1985 c. 69

(5) 1938 c. 73; section 10(2) was inserted by the Health Services Act 1980 (c. 53), Schedule 4, Part II, paragraph 14.

(6) 1984 c. 36

(7) 1971 c. 10

(8) 1947 c. 27; the National Health Service (Scotland) Act 1978 (c. 29), Schedule 15, paragraph 15, saved section 27 of the 1947 Act for the purposes of section 1(4) of the 1968 Act.

(9) Paragraph (b) of section 2(3) was repealed by the Local Government Finance Act 1988, Schedule 13, Part IV.

- (i) whose use is ancillary to, and which is used wholly in connection with, other domestic subjects or the residential use made of part residential subjects, and
- (ii) which is used wholly or mainly for the accommodation of one or more private motor vehicles;
- (b) private storage premises, being lands and heritages—
 - (i) whose use is ancillary to, and which are used wholly in connection with, other domestic subjects or the residential use made of part residential subjects, and
 - (ii) which are used wholly or mainly for the storage of articles of domestic use (including cycles and other similar vehicles);
- (c) communal sheltered housing premises, being lands and heritages—
 - (i) whose use is ancillary to, and which are used wholly in connection with, a dwellinghouse which has, or a group of dwellinghouses which have, been provided with facilities which are substantially different from those of an ordinary dwellinghouse and which has or, as the case may be, have been designed or adapted for occupation by persons whose special needs require accommodation of the kind provided by the dwellinghouse or dwellinghouses, and
 - (ii) in which there are facilities which are available for use by all the persons residing in the dwellinghouse or dwellinghouses or their guests;
- (d) communal residential establishments, being lands and heritages (other than any part of the lands and heritages specified in paragraph (2) below)—
 - (i) which are used wholly as the sole or main residence of persons who reside there, or
 - (ii) which are used wholly as residential accommodation by persons who, by virtue of section 8(4) of the Act, are to be regarded as being solely or mainly resident in the area of the local authority in which those lands and heritages are situated, and in which, in either case, there are facilities which are available for sharing by some or all of those persons.
- (2) The parts of the lands and heritages specified in this paragraph are any part of—
 - (a) a hostel;
 - (b) a nursing home;
 - (c) a private hospital; and
 - (d) a residential care home,

which is not used wholly or mainly as the sole or main residence of persons employed there.

(3) For the purposes of paragraph (1) above, lands and heritages, or parts of lands and heritages, which are not in use shall nevertheless be treated as private car parking premises, private storage premises, communal sheltered housing premises or, as the case may be, communal residential establishments, if that was the use last made of them.

Variation of definition of domestic subjects-exclusions

4. For the purposes of section 2(4) of the Act, the definition of domestic subjects in section 2(3) of the Act is varied by excluding from that definition the classes of lands and heritages comprising caravans, huts, sheds, bothies or other similar structures or buildings—
- (a) which are intended to be used wholly or mainly for residential purposes, and
 - (b) which are not the sole or main residence of any person, and
 - (c) which either—

- (i) in accordance with any licence or planning permission regulating the use of their pitches or sites, or for any other reason, are not allowed to be used for human habitation throughout the whole year, or
- (ii) by reason of their construction or the facilities which they do, or do not, provide are unfit so to be used.

Date when certain alterations to valuation roll take effect after 1st April 1989

5. For the purposes of section 2(2A) of the Act, where, after 1st April 1989 by virtue of these Regulations, any lands and heritages or any parts of lands and heritages—

- (a) cease to be domestic subjects, they shall be entered in the valuation roll with effect as from the date of the event by reason of which the lands and heritages or parts of the lands and heritages ceased to be domestic subjects or as from the beginning of the financial year in which the entry is made in the valuation roll, whichever is the later; and
- (b) become domestic subjects, any entry in the valuation roll in respect of such lands and heritages shall be deleted, with effect as from the date of the event by reason of which the lands and heritages or parts of the lands and heritages became domestic subjects.

PART RESIDENTIAL SUBJECTS

Meaning of part residential subjects-exceptions

6. The classes of lands and heritages which are prescribed for the purposes of paragraph (b) of the definition of “part residential subjects” in section 26(1) of the Act (lands and heritages excluded from that definition) are any part of the lands and heritages specified in regulation 3(2) above.

Dates relating to apportionment of values of part residential subjects

- 7. The date prescribed for the purposes of—
 - (a) paragraph 1 of Schedule 1 to the Act (date before 1st April 1989 by which apportionments of net annual and rateable values of part residential subjects are to be made); and
 - (b) paragraph 2 of that Schedule (date before 1st April 1989 by which valuation roll is to be altered by the addition of apportionment notes to entries relating to part residential subjects), is 1st October 1988.

MISCELLANEOUS

Fee for assessor’s certificate of value

8. The fee prescribed for the purposes of section 5(6) of the Act (fee for assessor’s certificate of value of property constituting domestic subjects) is £100.

Revocation

9. The Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1987((10)) are hereby revoked to the extent to which they are in force on the date of coming into force of these Regulations.

(10) *S.I. 1987/2179*. The powers under which regulations 3 and 4 (and the relevant definitions in regulation 2) of the 1987 Regulations were made, namely section 2(3)(b) and (4) of the Act, are respectively repealed by Part IV of Schedule 13 to, and amended by paragraph 15(3) of Schedule 12 to, the Local Government Finance Act 1988. The relevant repeals and

St Andrew's House,
Edinburgh
22nd August 1988

Sanderson of Bowden
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 15th September 1988, prescribe certain matters which fall to be prescribed in relation to Part I of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (“the Act”), as amended by the Local Government Finance Act 1988 (“the 1988 Act”).

These Regulations replace the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1987 (“the 1987 Regulations”). The powers in the Act under which certain provisions of the 1987 Regulations were made are repealed or amended by the 1988 Act. To the extent to which the 1987 Regulations are still in force on 15th September 1988, they are revoked by regulation 9 of these Regulations.

Under Part I of the Act, rates cease to be leviable in respect of domestic subjects with effect from 1st April 1989. Domestic subjects are defined in section 2(3) of the Act, as amended by the 1988 Act. Section 2(4) of the Act, as amended by the 1988 Act, empowers the Secretary of State to vary that definition of domestic subjects to include or exclude “such lands and heritages or parts thereof or class or classes of lands and heritages or parts thereof as may be prescribed”.

Regulation 3 (which re-enacts the substance of regulation 3 of the 1987 Regulations) varies the definition of domestic subjects to include the following classes of lands and heritages and parts thereof, namely—

- (a) private car parking premises, which are a garage, car port or car parking stance ancillary to, and used wholly in connection with, other domestic subjects or the residential use of part residential subjects and wholly or mainly for the accommodation of one or more private motor vehicles;
- (b) private storage premises, which are premises ancillary to, and used wholly in connection with, other domestic subjects or the residential use of part residential subjects and wholly or mainly for the storage of articles of domestic use;
- (c) communal sheltered housing premises, which are premises ancillary to, and used wholly in connection with, sheltered housing for certain persons and which have facilities available for those persons and their guests to use;
- (d) communal residential establishments, which are premises providing residential accommodation, with shared facilities, for persons who are solely or mainly resident there. This is defined as excluding any part of certain hostels, nursing homes, private hospitals and residential care homes which is not used as accommodation by staff who are solely or mainly resident there.

Regulation 4 (which re-enacts the substance of regulation 4 of the 1987 Regulations) varies the definition of domestic subjects to exclude the classes of land and heritages comprising caravans, huts, sheds, bothies or other similar structures or buildings which are intended to be used wholly or mainly for residential purposes, and are not the sole or main residence of any person but which may not be used for human habitation throughout the whole year either because of planning or other restrictions or because they are not fit for such use.

Regulation 5 is a new provision. It prescribes the dates from which an entry in the valuation roll is to have effect, or from which the deletion of an entry in the valuation roll is to have effect, in cases where lands and heritages, or parts of lands and heritages, cease to be or become domestic subjects after 1st April 1989 by virtue of these Regulations.

Regulation 6 re-enacts regulation 5 of the 1987 Regulations and makes provision with regard to the meaning of part residential subjects which are defined in section 26(1) of the Act. Part residential subjects are subjects which are partly used as the sole or main residence of any person and partly for other purposes. They do not include domestic subjects or such other classes of lands and heritages as may be prescribed. Regulation 6 prescribes, for this purpose, those parts of the hostels, nursing homes, private hospitals and residential care homes which are excepted from the definition of communal residential establishments and are therefore not domestic subjects.

Regulation 7 re-enacts regulation 6 of the 1987 Regulations and prescribes 1st October 1988 as the date by which—

- (a) the net annual and rateable values of part residential subjects are to be apportioned as between the residential and non-residential uses of those subjects; and
- (b) entries in the valuation roll for part residential subjects are to be altered by the addition of a note showing the apportionment of those values.

Regulation 8 re-enacts regulation 7 of the 1987 Regulations and prescribes £100 as the fee payable for a certificate issued by the assessor under section 5(6) of the Act as to what would have been the gross annual value, net annual value or rateable value of certain domestic subjects immediately before 1st April 1989. Such a certificate may be required for certain statutory purposes where, for example, the domestic subjects only come into existence on or after that date.