

1990 No. 817 (S.99)

**RATING AND VALUATION**

**The Docks and Harbours (Rateable Values) (Scotland)  
Order 1990**

*Made* - - - - - *30th March 1990*

*Coming into force* *1st April 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

**Citation and commencement**

1. This Order may be cited as the Docks and Harbours (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

**Interpretation**

2.—(1) In this Order, unless the context otherwise requires—

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“associated body” means an associated body of an Authority and shall be construed in accordance with paragraph (3) below;

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

- (a) the British Waterways Board;
- (b) the Forth Ports Authority; and
- (c) Caledonian MacBrayne Limited;

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

“adjusted income” in relation to any period (“the relevant period”) means the amount of relevant income for that period multiplied by the product of

$$\frac{P}{Y}$$

where—

- (a) P is the retail prices index for September 1987; and

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(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) Y is the retail prices index for the September falling during the relevant period, unless the base month for the index for that September differs from the base month for the index for September 1987, in which case Y is the figure which is, for this purpose, estimated and published by the Secretary of State as the figure which would have been the index for the September falling during the relevant period if the base month for the index had been the same in both cases;

“financial year” means the period of twelve months beginning with 1st April;

“the local assessor” means the assessor for a valuation area;

“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(a) ;

“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 rather with land in general than with land which is used for the purposes of carrying on of statutory undertakings (within the meaning of the Town and Country Planning (Scotland) Act 1972(b));

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order;

“rating area” means the area of an islands or district council;

“relevant income”, in relation to a period, means all income by way of revenue included or to be included in the revenue or profit and loss account of an undertaking for the period, whether derived from the operations carried on under authority conferred by or under any enactment or otherwise but excludes—

(a) income in respect of pilotage;

(b) income from—

(i) investments required to be shown in the account 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 right over any such property, which is or forms part of any lands and heritages which do not fall within the prescribed class of lands and heritages;

(c) any sum receivable in respect of the disposal of land;

“relevant preceding financial year” means, in relation to any financial year, the financial year ending immediately before the financial year in question;

“retail prices index” means the general index of retail prices for all items published by the Secretary of State;

“subsidiary”, in relation to an Authority, has the same meaning as subsidiary has in relation to a company for the purposes of the Companies Act 1985(c);

“undertaking” means a dock or harbour undertaking carried on, under authority conferred by or under any enactment, by an Authority; and

“valuation area” means the area of a regional or islands council.

(2) Any reference in this Order to—

(a) lands and heritages occupied by an Authority includes a reference to lands and heritages which, if unoccupied, are owned by that Authority; 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 in use, they will be used for such a purpose.

(3) For the purposes of this Order, 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 own or control not less than 51 per cent of its issued share capital; or

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(a) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

(b) 1972 c.52.

(c) 1985 c.6.

- (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.

(4) Any reference in this Order to a numbered article shall be construed as a reference to the article bearing that number in this Order.

#### **Prescribed class of lands and heritages**

3.—(1) The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland (other than the lands and heritages mentioned in paragraph (2) below) 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 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
- (b) premises occupied by an Authority which are not situated on operational land of that Authority.

#### **Non-domestic water rate**

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91 or any subsequent financial year.

#### **Rateable values**

5.—(1) For the purposes of section 6(1) of the 1975 Act, the rateable value of any lands and heritages occupied by an Authority which fall within the prescribed class of lands and heritages shall be—

- (a) for the financial year 1990-91, an amount equal to 9 per cent of the relevant income of the undertaking for—
  - (i) any accounting period of twelve months ending during the period beginning on 31 December 1987 and ending with 31 March 1988; or
  - (ii) if there was no such accounting period, the twelve months ending on 31 March 1988;
- (b) for any subsequent financial year, an amount equal to 9 per cent of the adjusted income of the undertaking for—
  - (i) any accounting period of twelve months ending during the relevant period beginning on 31 December in the relevant preceding financial year and ending with 31 March in that financial year; or
  - (ii) if there is no such accounting period, the twelve months ending with 31 March in the relevant preceding financial year; unless that amount differs from the rateable value for the relevant preceding financial year by less than 20 per cent of that rateable value, in which case the rateable value for that subsequent year shall be the same as the rateable value for the relevant preceding financial year.

(2) Where (apart from this paragraph) any rateable value determined under paragraph (1) above would include a fraction of a pound—

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

#### **Apportionment**

6. Where an undertaking carried on by an Authority in any financial year consists of or comprises lands and heritages in two or more rating areas which fall within the prescribed

class of lands and heritages, the rateable value determined in accordance with article 5 shall be apportioned among the councils for the rating areas concerned in the proportion which the relevant income attributable to such lands and heritages in each rating area bears to the relevant income attributable to all such lands and heritages consisting of or comprising the undertaking.

### **Supplementary**

7. Where the undertaking carried on by an Authority in any financial year consists of or comprises lands and heritages in any valuation area which fall within the prescribed class of lands and heritages, the local assessor for that area shall, on or before 31 July in any financial year—

- (a) determine the rateable value of such lands and heritages in accordance with article 5; and,
- (b) where the undertaking consists of or comprises such lands and heritages in two or more rating areas, apportion that value in accordance with article 6.

8. Where the undertaking carried on by an Authority in any financial year consists of or comprises lands and heritages in any valuation area which fall within the prescribed class of lands and heritages, the Authority shall furnish to the local assessor for that area, on or before 30 June of that financial year, a statement certified by the Authority which shall specify

- (a) the relevant income of the undertaking for the accounting period mentioned in Article 5(1)(a) or (b) as appropriate;
- (b) particulars of any amount excluded from the definition of relevant income in Article 2(1); and,
- (c) where an undertaking consists of or includes lands and heritages in two or more rating areas, the proportion of that relevant income which is attributable to the lands and heritages which fall within the prescribed class of lands and heritages in each rating area.

### **Amendment of Enactments**

9. The following amendments shall be made to the enactments specified in articles 10 and 11 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91 and for each subsequent financial year.

10. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words “this Act”, there shall be inserted the words “and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975”.

11.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end of the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Docks and Harbours (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words “lands and heritages” the following words:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

(3) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

“(gg) by entering therein, in relation to an Authority as defined in the 1990 Order, any lands and heritages within the class of lands and heritages prescribed in that Order together with the rateable values determined and, where appropriate, apportioned by the assessor in accordance with that Order;”.

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(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

(4) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

(5) In section 3(4) of that Act after the words “lands and heritages” where they appear for the first time there shall be inserted the following:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

#### **Revocation**

12. The Docks and Harbours (Rateable Values) (Scotland) Order 1985(a) and the Docks and Harbours (Rateable Values) (Scotland) Amendment Order 1988(b) are hereby revoked.

St. Andrew's House, Edinburgh  
30th March 1990

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State,  
Scottish Office

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(a) S.I. 1985/588.  
(b) S.I. 1988/1220.

## EXPLANATORY NOTE

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

This Order makes provision for the valuation for the financial year 1990-91 and any subsequent financial year of certain lands and heritages ("the prescribed class of lands and heritages") occupied by a person ("an authority") carrying on a dock or harbour undertaking under statutory powers, other than the British Waterways Board, The Forth Ports Authority and Caledonian MacBrayne Limited.

The Order provides for the valuation of the prescribed class of lands and heritages occupied by an Authority for the financial year 1990-91 to be an amount equal to 9 per cent of the relevant income, as defined, of the undertaking during a 12 month period, and for any subsequent financial year to be an amount equal to 9 per cent of the adjusted income, as defined, of the undertaking for a 12 month period (Article 5).

The Order also provides for the apportionment, in appropriate cases, of the rateable value of the prescribed class of lands and heritages of each undertaking among different local authorities (Article 6).

The Order also provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for the financial year 1990-91 and any subsequent financial year (Article 4).

The Order contains supplementary provisions and amends certain enactments relating to the valuation of the prescribed class of lands and heritages (Articles 7 to 11).

The Order also revokes the Docks and Harbours (Rateable Values) (Scotland) Order 1985 and the Docks and Harbours (Rateable Values) (Scotland) Amendment Order 1988 (S.I. 1985/588 and 1988/1220).

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