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STATUTORY INSTRUMENTS

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**1991 No. 943 (S.96)**

**RATING AND VALUATION**

**The Electricity Generators (Rateable Values) (Scotland) (No. 2) Order 1991**

*Made* - - - - 29th March 1991

*Coming into force* - - 1st April 1991

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(1) 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.—(1) This Order may be cited as the Electricity Generators (Rateable Values) (Scotland) (No.2) Order 1991 and shall come into force on 1st April 1991.

**Interpretation**

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

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

“a Company” means any person carrying on an undertaking and includes a Scottish successor electricity company;

“declared net capacity”, in relation to generating plant, means the highest generation of electricity (at the main alternator terminals), expressed to the nearest 100th part of a megawatt, which can be maintained indefinitely without causing damage to the plant, less so much of that capacity as is consumed by the plant;

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

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(1) 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; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 6, paragraph 18; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

“generating plant”, in relation to any lands or heritages, means plant in or on the lands and heritages which is used or available for use for the purposes of generating electricity;

“the 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(2);

“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 of this Order;

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

“Scottish successor electricity company” means—

- (a) Scottish Power plc; or
- (b) Scottish Hydro-Electric plc; or
- (c) Scottish Nuclear Limited;

“undertaking” means an undertaking for the generation of electricity; 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 a Company includes a reference to lands and heritages which, if unoccupied, are owned by that Company; 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.

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

**3.** 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 occupied by a Company and used or available for use—

- (a) for the purposes of generating electricity, where—
  - (i) such use is the sole or primary use; or
  - (ii) they are primarily so used or available for use in connection with a scheme for the production for sale of both electrical power and heat; or
  - (iii) the primary source of energy in such generation is the burning of refuse; and
- (b) where the generating plant—
  - (i) uses wind, wave or tidal power as its primary source of energy; or
  - (ii) uses water power as its primary source of energy; or
  - (iii) if its primary source of energy is the burning of refuse and neither paragraph (a)(i) nor paragraph (a)(ii) applies, has a declared net capacity of 25 megawatts or more; or
  - (iv) has a declared net capacity of 500 kilowatts or more;

provided that, in relation to any lands and heritages in Scotland occupied by a Scottish successor electricity company, paragraph (a)(ii) and (iii) and paragraph (b)(ii), (iii) and (iv) shall not apply.

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(2) 1980 c. 45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47), Schedule 5, paragraph 29, and amended by the Local Government and Housing Act 1989, Schedule 6, paragraph 16 and Schedule 12, Part II.

### **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 1991-92.

### **Rateable values for financial year 1991-92**

5.—(1) For the purposes of section 6(1) of the 1975 Act, the rateable value of any prescribed class of lands and heritages occupied by a Company for the financial year 1991-92 shall be an amount equal to the product of either—

- (a) £4,375 per megawatt of the declared net capacity of the generating plant (where the primary source of energy used for the plant is wind, wave or tidal power); or
- (b) £8,750 per megawatt of its declared net capacity (in any other case).

(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 of rateable values**

6. Where an undertaking carried on by Company in the financial year 1991-92 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 local authorities for the rating areas concerned in the proportion which the area of the prescribed lands and heritages in each rating area in that financial year bears to the total area of the prescribed lands and heritages of the undertaking in that financial year.

### **Supplementary**

7. Where the undertaking carried on by a Company in the financial year 1991-92 consists of or comprises lands and heritages in any valuation area which fall within the prescribed class of lands and heritages the assessor for that area shall—

- (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 within that valuation area, apportion that value in accordance with article 6.

### **Amendment of enactments**

8. For the purposes of section 6(5) of the 1975 Act, the following amendments shall be made to the enactments specified in articles 9 to 11 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1991-92.

9. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(3), 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”.

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

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(3) 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, Schedule 6, paragraph 3.

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Electricity Generators (Rateable Values) (Scotland) (No.2) Order 1991 (hereinafter in this Act referred to as “the 1991 (No.2) Order”);”.

(2) After paragraph (g) of section 2(1) of that Act there shall be inserted the following paragraphs:

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“(gg) by deleting therefrom, with effect on and after 1st April 1991, any lands and heritages within the class of lands and heritages prescribed in the Electricity Generators (Rateable Values) (Scotland) Order 1991(4) which were entered in the roll before that date;

(ggg) by entering therein, in relation to each Company as defined in the 1991 (No.2) 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 articles 5, 6 and 7 of that Order;”.

(3) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)” there shall be inserted the words “or (ggg)”.

(4) In section 37(1) of that Act, at the end of the definition of “material change of circumstances” (5), there shall be inserted the following:—

“and in the case of lands and heritages within the class of lands and heritages prescribed in the 1991 (No.2) Order, any change in the declared net capacity of the generating plant in or on those lands and heritages within the meaning of that Order;”.

St. Andrew’s House,Edinburgh  
29th March 1991

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

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(4) S.I.1991/646

(5) The definition of “material change of circumstances” was amended by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31), section 20 and Schedule 2, paragraph 17, and by the Abolition of Domestic Rates Etc. (Scotland) Act 1987, Schedule 6.

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## EXPLANATORY NOTE

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

This Order makes provision for the valuation for the financial year 1991-92 of certain lands and heritages (“the prescribed class of lands and heritages”) occupied by a person for the purposes of generating electricity where—

- (a) generation is the sole or principal purpose of the use of the prescribed lands and heritages, or they are principally used in connection with the sale of both electrical power and heat, or the primary source of energy is the burning of refuse; and
- (b) the generating plant uses wind, wave, tidal or water power as its primary source of energy, or the declared net capacity is, where refuse is burned, and the use for generating electricity is not as described in (a) above, 25 megawatts or more, or is 500 kilowatts or more.

The Order applies to generating premises of the Scottish successor electricity companies where generation is the sole or primary use and wind, wave or tidal power is used as the primary source of energy.

The Order provides for the valuation of the prescribed class of lands and heritages of each undertaking for that financial year to be calculated on the basis of a certain rate per megawatt of the declared net capacity of the generating plant, namely, £4,375 per megawatt for wind, wave or tidal power generators and £8,750 per megawatt in all other cases (article 5).

The Order provides for the apportionment, in appropriate cases, of the rateable value of the prescribed 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 lands and heritages for the financial year 1991-92 (article 4).

The Order also contains supplementary provisions and amends certain enactments relating to the valuation of the prescribed lands and heritages (articles 7—10).