
STATUTORY INSTRUMENTS

1992 No. 1329 (S.126)

COUNCIL TAX, SCOTLAND

The Council Tax (Valuation of Dwellings) (Scotland) Regulations 1992

<i>Made</i>	- - - -	<i>2nd June 1992</i>
<i>Laid before Parliament</i>		<i>10th June 1992</i>
<i>Coming into force</i>	- -	<i>1st July 1992</i>

The Secretary of State, in exercise of the powers conferred on him by sections 3(3) and 7(2) and (3) (b) of the Local Government Finance and Valuation Act 1991((1)) and sections 86(2), 113(1) and 116(1) of the Local Government Finance Act 1992((2)) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Council Tax (Valuation of Dwellings) (Scotland) Regulations 1992 and shall come into force on 1st July 1992.

(2) In these Regulations—

“agricultural lands and heritages” means—

(a) any lands and heritages used for agricultural or pastoral purposes only (disregarding any use of the lands and heritages for the purpose of the breeding, rearing, grazing or exercising of horses (within the meaning of section 6(4) of the Riding Establishments Act 1964((3)), if the only other use of the lands and heritages is a substantial use for agricultural or pastoral purposes);

(b) any lands and heritages used as woodlands, market gardens, orchards, reed beds, allotments or allotment gardens; and

(c) any lands exceeding one tenth of a hectare used for the purpose of poultry farming;

but does not include any land kept or preserved mainly or exclusively for sporting purposes;

“common parts”, in relation to a dwelling, means any part of a building containing the dwelling and any land or premises which the owner or occupier of the dwelling is entitled to use in common with the owners or occupiers of other premises in the immediate locality;

(1) 1991 c. 51.

(2) 1992 c. 14; section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(3) 1964 c. 70.

“cottar”, “croft” and “crofter” have the same meanings as they have in the Crofters (Scotland) Act 1955((4)) and “the crofting counties” means the former counties to which that Act applies; “fish farming” means the breeding or rearing of fish or the cultivation of shellfish (including crustaceans and molluscs of any description) for the purpose of producing food for human consumption or for transfer to other waters, but does not include the breeding, rearing or cultivation of any fish or shellfish—

- (a) which are purely ornamental; or
 - (b) which are bred, reared or cultivated for exhibition;
- “permitted development” means development—
- (a) for which planning permission is not required;
 - or
 - (b) for which an application for planning permission is not required.

Valuation of dwellings

2.—(1) For the purposes of valuations under section 86(2) of the Local Government Finance Act 1992, the value of any dwelling shall be taken to be the amount which the dwelling might reasonably have been expected to realise if it had been sold in the open market by a willing seller on 1st April 1991, having applied the assumptions mentioned in paragraph (2) below and, where applicable, the additional assumption mentioned in sub-paragraph (a), (b) or (c) of paragraph (1) of regulation 3 below, as the case may be.

- (2) The assumptions referred to in paragraph (1) above are—
 - (a) that the sale was with vacant possession;
 - (b) that the dwelling was sold free from any heritable security;
 - (c) that the size and layout of the dwelling, and the physical state of its locality, were the same as at the time when the valuation of the dwelling is made;
 - (d) that the dwelling was in a state of reasonable repair;
 - (e) in the case of a dwelling the owner or occupier of which is entitled to use common parts, that those parts were in a like state of repair and the purchaser would be liable to contribute towards the cost of keeping them in such a state;
 - (f) in the case of a dwelling which contains fixtures to which paragraph (4) below applies, that the fixtures were not included in the dwelling;
 - (g) that the use of the dwelling would be permanently restricted to use as a private dwelling; and
 - (h) that the dwelling had no development value other than value attributable to permitted development.
- (3) In determining what is “reasonable repair” in relation to a dwelling for the purposes of paragraph (2) above, the age and character of the dwelling and its locality shall be taken into account.
- (4) This paragraph applies to any fixtures which—
 - (a) are designed to make the dwelling suitable for use by a person who is physically disabled; and
 - (b) add to the value of the dwelling.

Dwellings occupied in connection with agriculture or fish farming

- 3.—(1) The additional assumptions referred to in regulation 2(1) above are—
- (a) if the dwelling is, at the time when the valuation of it is made—
 - (i) occupied in connection with agricultural lands and heritages;
 - (ii) used as living accommodation by a person engaged primarily in carrying on or directing agricultural operations on those lands and heritages or employed as an agricultural worker thereon; and
 - (iii) suitable in character and size for such use in connection with those lands and heritages;
that the dwelling could not be occupied and used otherwise than as stated;
 - (b) if the dwelling is, at the time when the valuation of it is made
 - (i) not a dwelling falling within sub-paragraph (a) above;
 - (ii) occupied in connection with lands and heritages used solely for or in connection with fish farming (disregarding any time in the year during which they are used in any other way, if that time does not amount to a substantial part of the year);
 - (iii) used as living accommodation by a person engaged primarily in carrying on or directing fish farming operations on those lands and heritages or employed in connection with fish farming thereon; and
 - (iv) suitable in character and size for such use in connection with those lands and heritages;
that the dwelling could not be occupied and used otherwise than as stated; and
 - (c) if the dwelling is, at the time when the valuation of it is made—
 - (i) not a dwelling falling within sub-paragraph (a) or (b) above;
 - (ii) situated in the crofting counties;
 - (iii) occupied in connection with agricultural lands and heritages to which paragraph (2) below applies;
 - (iv) used as living accommodation by a person who is the owner or tenant of those lands and heritages or is a cottar in respect of the dwelling or who has no right or title to occupy the dwelling and is engaged in the like activities and occupations as a crofter; and
 - (v) suitable in character and size for such use in connection with those lands and heritages;
that the dwelling could not be occupied otherwise than as stated and could not be used otherwise than as living accommodation by a person engaged in carrying on or directing agricultural operations on those lands and heritages.
- (2) This paragraph applies to agricultural lands and heritages—
- (a) which form all or part of a croft; or
 - (b) the area of which does not exceed thirty hectares and any rent in respect of which does not exceed £100 *per annum*.

Revocations

4. The Domestic Property (Valuation) (Scotland) Regulations 1991((5)) and the Domestic Property (Valuation) (Scotland) Amendment Regulations 1991((6)) are hereby revoked.

(5) S.I.1991/2022.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St. Andrew's House,
Edinburgh
2nd June 1992

Allan Stewart
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to properties in Scotland which are dwellings for council tax purposes. Section 72(2) of the Local Government Finance Act 1992 (“the 1992 Act”) defines the properties which are dwellings for those purposes.

Regulation 2 sets out the basis of valuation of dwellings for the purposes of valuation lists required to be compiled and maintained under Part II of the 1992 Act. The value of any dwelling is to be taken to be the amount which, on the assumptions mentioned in paragraph (2) of that regulation, it might reasonably have been expected to realise if it had been sold in the open market by a willing seller on 1st April 1991. Regulation 3 sets out additional assumptions which are to be applied in respect of certain properties occupied in connection with agricultural or fish farming operations.

Regulation 4 revokes the Domestic Property (Valuation) (Scotland) Regulations 1991 and amending Regulations. Those 1991 Regulations are superseded, as to regulation 2, by these Regulations and, as to regulations 3 and 4, by sections 84(1) and 74(2) of the 1992 Act, respectively.