



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;

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- (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.
- [^{F1}(7A) The Secretary of State may by order provide that subsection (6) above shall also apply in relation to any hereditament of a prescribed class.
- (7B) For the purposes of subsection (7A) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (7C) Without prejudice to the generality of subsection (7B) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
 - (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.
- (7D) A hereditament is a Crown hereditament if—
- (a) it is occupied by or on behalf of the Crown for public purposes,
 - (b) though unoccupied, it appears that it will be occupied by or on behalf of the Crown for public purposes when next in occupation, or
 - (c) it is provided and maintained by an authority mentioned in subsection (7) above for purposes connected with the administration of justice, police purposes or other Crown purposes.]

(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

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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.

Textual Amendments

F1 S. 64(7A)–(7D) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 33**

Modifications etc. (not altering text)

C1 S. 64(10) excluded by S.I. 1990/2329, **reg. 3(3)**

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—
- whether the different hereditaments or the one hereditament (as the case may be) shall be treated as occupied or unoccupied;
 - 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—
- which was used in or on the hereditament when it was last in use, or
 - 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—
- 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
 - 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 ^{M1}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.

[^{F2}(8A) In a case where—

- land consisting of a hereditament is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,

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- (b) section 64(2) above does not apply, and
 - (c) apart from this subsection, the hereditament is not occupied, the hereditament shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner.]
- (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).

Textual Amendments

F2 S. 65(8A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, Sch. 5 para. 34

Modifications etc. (not altering text)

C2 S. 65 applied (29.4.1996) by 1996 c. 12, s. 2(3)

Marginal Citations

M1 1983 c. 2.

[65A ^{F3}Crown property.

- (1) This Part applies to the Crown as it applies to other persons.
- (2) Accordingly, liability to a non-domestic rate in respect of a hereditament is not affected by the fact that—
 - (a) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes, or
 - (b) the Crown or a person acting on behalf of the Crown is the owner of the hereditament.
- (3) If (apart from this subsection) any property would consist of two or more Crown hereditaments, the property is to be treated for the purposes of this Part as if it were a single hereditament occupied by such one of the occupiers as appears to the billing authority to occupy the largest part of the property.
- (4) In this section, “Crown hereditament” means a hereditament which—
 - (a) is occupied by a Minister of the Crown or Government department or by any officer or body exercising functions on behalf of the Crown, but
 - (b) is not provided or maintained by a local authority or by a police authority established under section 3 of the ^{M2}Police Act 1996.
- (5) In this section—
 - (a) references to this Part include any subordinate legislation (within the meaning of the ^{M3}Interpretation Act 1978) made under it, and
 - (b) “local authority” has the same meaning as in the ^{M4}Local Government Act 1972, and includes the Common Council of the City of London.
- (6) The Secretary of State may by order amend subsection (4)(b) above so as to alter the persons for the time being referred to there.
- (7) Subsection (3) above does not affect the power conferred by section 64(3) above]

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Textual Amendments

F3 S. 65A inserted (*prosp.*) by 1997 c. 29, ss. 3, 34(1)

Marginal Citations

M2 1996 c. 16.

M3 1978 c. 30.

M4 1972 c. 70.

66 Domestic property.

- (1) [^{F4}Subject to subsections (2) and (2B) below,] 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 [^{F5}which either has a floor area of 25 square metres or less or is] 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.

[^{F6}(2) Property is not domestic property if it is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation—

- (a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and
- (b) which is not self-contained self-catering accommodation provided commercially.

(2A) Subsection (2) above does not apply if—

- (a) it is intended that, in the year beginning with the end of the day in relation to which the question is being considered, the property will be available for the provision of short-stay accommodation for periods totalling less than 100 days, and
- (b) the person intending to provide such accommodation also intends to reside in the hereditament within which the accommodation is contained throughout any period during which accommodation is intended to be provided.

(2B) A building or self-contained part of a building is not domestic property if—

- (a) the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for short periods totalling 140 days or more, and
- (b) on that day his interest in the building or part is such as to enable him to let it for such periods.

(2C) For the purposes of subsection (2B) the relevant person is—

- (a) where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and

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(b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.

(2D) Subsection (2B) above does not apply where the building or self-contained part is used as the sole or main residence of any person other than a person who is treated as having such a residence there only by virtue of section 2(5A) above.]

[^{F7}(3) Subsection (1) above does not apply in the case of a pitch occupied by a caravan, but if in such a case the caravan is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property]

[^{F8F9}(4) Subsection (1) above does not apply in the case of a mooring occupied by a boat, but if in such a case the boat is the sole or main residence of an individual, the mooring and the boat, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property.

(4A) Subsection (3) or (4) above does not have effect in the case of a pitch occupied by a caravan, or a mooring occupied by a boat, which is an appurtenance enjoyed with other property to which subsection (1)(a) above applies]

(5) Property not in use is domestic if it appears that when next in use it will be domestic.

(6) ^{F10}

(7) Whether anything is a caravan shall be construed in accordance with Part I of the ^{M5}Caravan Sites and Control of Development Act 1960.

(8) ^{F10}

[^{F8}(8A) In this section—

“business” includes—

(a) any activity carried on by a body of persons, whether corporate or unincorporate, and

(b) any activity carried on by a charity;

“commercially” means on a commercial basis, and with a view to the realisation of profits; and

“relevant leasehold interest” means an interest under a lease or underlease which was granted for a term of 6 months or more and conferred the right to exclusive possession throughout the term.]

(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.

| Textual Amendments | |
|--------------------|---|
| F4 | Words inserted by S.I. 1990/162, art. 3(4) |
| F5 | Words inserted by S.I. 1990/162, art. 3(2)(b) |
| F6 | S. 66 subsections (2)–(2D) substituted for subsection (2) by S.I. 1990/162 art. 3(3) |
| F7 | S. 66(3) substituted (<i>retrospective</i> to 1.4.1990) by 1996 c. 12, s. 1(2)(4)(5) |

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- F8** S. 66(8A) inserted by S.I. 1990/162, art. 3(4)
F9 S. 66(4)(4A) substituted for s. 66(4) (retrospective to 1.4.1990) by 1996 c. 12, s. 1(3)(4)(5)
F10 S. 66(6)(8) repealed (retrospectively) by Caravans (Standard Community Charge and Rating) Act 1991 (c. 2), s. 1(2)(3)

Marginal Citations

- M5** 1960 c. 62.

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, [^{F11}or is a Crown hereditament 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.

[^{F12}(9A) In subsection (9) above “class” means a class expressed by reference to whether hereditaments—

- (a) are occupied or owned by a person designated under section 53(1) above, and
- (b) fall within any description prescribed in relation to him under section 53(1).]

- (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.

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- (11) The ^{M6}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.

Textual Amendments

- F11** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 35(2)**
- F12** [S. 67\(9A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 139, **Sch. 5 para. 35(3)**
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Marginal Citations

- M6** 1967 c. 9.

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