
STATUTORY INSTRUMENTS

1990 No. 630 (S.78)

RATING AND VALUATION

The Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1990

<i>Made</i>	- - - -	<i>15th March 1990</i>
<i>Laid before Parliament</i>		<i>19th March 1990</i>
<i>Coming into force</i>	- -	<i>1st April 1990</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 2(2A) and (4), 26(1) and 31(3) of 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 1990 and shall come into force on 1st April 1990.

Interpretation

2. In these Regulations—

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

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

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

“pupils receiving school education” shall be construed in accordance with the Education (Scotland) Act 1980⁽²⁾;

“relevant person” means, in relation to any premises—

- (a) subject to paragraphs (b) and (c) below, the owner of the premises;
- (b) subject to paragraph (c) below, if the premises are let for a period of 12 months or more, the tenant; or
- (c) if the premises are sublet for such a period, the subtenant;

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

(2) 1980 c. 44.

“school boarding house” means any dwellinghouse or other premises used for the boarding of pupils receiving school education; and

“school dormitory accommodation” means any accommodation used for sleeping purposes by pupils receiving school education.

Variation of definition of domestic subjects – exclusion

3.—(1) For the purposes of section 2(4) of the Act, the definition of domestic subjects in section 2(3) of the Act⁽³⁾ is further varied by excluding from that definition any lands and heritages or parts thereof at any time in a financial year during which they fall within the class of lands and heritages specified in paragraph (2) below.

(2) The class of lands and heritages specified in this paragraph is any premises—

- (a) which consist of a dwellinghouse with any garden, yard, garage, outhouse or pertinent belonging to or occupied along with such dwellinghouse; and
- (b) which are made available by a relevant person for letting, commercially, as self-catering accommodation, for short periods amounting in the aggregate to 140 days or more in a financial year; or
- (c) which, where the premises have not been made so available for letting in that year, are intended by a relevant person to be made so available for letting in that year and the interest of the relevant person in the premises is such as to enable him to let them for such periods,

but it does not include any premises during any time in that year when they are used as the sole or main residence of any person.

(3) In ascertaining for the purposes of this regulation whether the premises are used as the sole or main residence of any person, section 8(4) of the Act (which provides for certain students to be regarded as solely or mainly resident in certain local authority areas) shall be disregarded.

Variation of definition of domestic subjects – inclusion

4.—(1) For the purposes of section 2(4) of the Act, the definition of domestic subjects in section 2(3) of the Act is further varied by including within that definition any lands and heritages or parts thereof which fall within the class of lands and heritages specified in paragraph (2) below.

(2) The class of lands and heritages specified in this paragraph is any premises used wholly or mainly as –

- (a) a school boarding house; or
- (b) school dormitory accommodation,

including any kitchen, dining room or other premises which are integral with and which are used wholly in connection with the school boarding house or, as the case may be, the school dormitory accommodation.

Revocation

5. The Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1989⁽⁴⁾ are hereby revoked.

(3) Section 2(3) was amended by the Local Government Finance Act 1988 (c. 41), Schedule 13, Part IV; the definition of “domestic subjects” has been varied by S.I. 1987/2179 (now revoked), 1988/1477, 1989/241 and 1477.

(4) S.I. 1989/241.

Date from which certain alterations to valuation roll take effect

6. For the purposes of section 2(2A) of the Act, where, by virtue of these Regulations, any lands and heritages or any parts thereof—

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

St. Andrew's House,
Edinburgh
15th March 1990

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Part I of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47) (“the Act”), rates are not leviable in respect of domestic subjects. Domestic subjects are defined in section 2(3) of the Act, as amended by the Local Government Finance Act 1988 (c. 41).

Section 2(4) of the Act, as so amended, empowers the Secretary of State to vary the definition of domestic subjects so as 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”. The Secretary of State has already exercised this power in the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1988 (S.I. 1988/1477), the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1989 (S.I. 1989/241) and the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (No. 2) (Scotland) Regulations 1989 (S.I. 1989/1477).

Regulation 3 of these Regulations further varies the definition of domestic subjects to exclude, in any financial year, any dwellinghouse which is made available by a relevant person for letting, commercially, as self-catering accommodation, for short periods amounting in the aggregate to 140 days or more in that year or any dwellinghouse which is intended by a relevant person to be made so available. This variation has the effect of rendering such self-catering accommodation liable to rates. Relevant person for this purpose is defined as being the owner of the premises or, if they are let or sublet for 12 months or more, the tenant or the subtenant. This provision does not apply during any part of a financial year during which the premises are in fact used as the sole or main residence of any person, disregarding the effect of section 8(4) of the Act (students).

Regulation 4 of these Regulations further varies the definition of domestic subjects to include any premises used wholly or mainly as a school boarding house or school dormitory accommodation, together with any premises used wholly in connection with such property. This variation has the effect of exempting such premises from rates.

Regulation 5 of these Regulations revokes the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1989 (“the 1989 Regulations”). The 1989 Regulations included within the definition of domestic subjects certain parts of part residential subjects, such as hotels, public houses, fire stations, caravan sites, boarding houses and holiday camps, which were used wholly or mainly as the sole or main residence of a person. This had the effect of rendering such persons liable to the personal community charge because they would no longer be living in premises which were subject to non domestic rates and therefore exempt under paragraph 12(c) of Schedule 1A to the 1987 Act, as amended by paragraph 35 of Schedule 12 to the Local Government Finance Act 1988.

It is, however, no longer necessary to have the 1989 Regulations. This is because the said paragraph 12(c) is amended, with effect from 1st April 1990, by paragraph 15 of Schedule 6 to the Local Government and Housing Act 1989 (c. 42) to remove the exemption from the personal community charge of a person residing in part residential subjects. The 1989 Regulations are therefore revoked.

The effect of these Regulations is that certain premises either will cease to be domestic subjects and become liable to be entered in the valuation roll or will become domestic subjects and will fall to be deleted from the valuation roll.