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STATUTORY INSTRUMENTS

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**1990 No. 788 (S.93)**

**RATING AND VALUATION**

**The Non-Domestic Rates (Levying)  
(Scotland) Regulations 1990**

<i>Made</i>	- - - -	<i>30th March 1990</i>
<i>Laid before Parliament</i>		<i>30th 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 section 128 of the Local Government Finance Act 1988<sup>(1)</sup> 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 Non-Domestic Rates (Levying) (Scotland) Regulations 1990 and shall come into force on 1st April 1990.

**Interpretation**

**2.—(1)** In these Regulations—

“the 1956 Act” means the Valuation and Rating (Scotland) Act 1956<sup>(2)</sup>;

“the 1975 Act” means the Local Government (Scotland) Act 1975<sup>(3)</sup>;

“the 1987 Act” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987<sup>(4)</sup>;

“the 1989 Regulations” means the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1989<sup>(5)</sup>;

“the 1990 Regulations” means the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1990<sup>(6)</sup>;

“apportionment note” shall have the same meaning as in section 26(1) of the 1987 Act;

“financial year” means the period of 12 months beginning on 1st April;

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(1) 1988 c. 41; section 128 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 6, paragraph 7.

(2) 1956 c. 60.

(3) 1975 c. 30.

(4) 1987 c. 47.

(5) S.I.1989/241.

(6) S.I. 1990/630.

“lower limit”, in relation to any lands and heritages, shall be construed in accordance with regulation 4(5);

“non-domestic rate” for the prescribed financial year means the non-domestic rate prescribed for that year under section 3A of the 1987 Act(7);

“notional rateable value”, in relation to any lands and heritages, shall be construed in accordance with regulation 4(1);

“part residential subjects” shall have the same meaning as they have in section 26(1) of the 1987 Act(8) and any reference to the residential or non-residential use of those subjects shall be construed in accordance with paragraph 11 of Schedule 1 to that Act;

“prescribed financial year” means the financial year 1990-91; and

“upper limit”, in relation to any lands and heritages, shall be construed in accordance with regulation 4(4).

(2) Any reference in these Regulations to an entry in respect of any lands and heritages in, or to the rateable value of any lands and heritages appearing in, the valuation roll on a particular date includes a reference to—

(a) any entry which is subsequently made in the valuation roll in respect of those lands and heritages or, as the case may be;

(b) any amendment which is subsequently made in the valuation roll to that rateable value, which, in either case, is effective on that date.

(3) Any reference in these Regulations to a numbered regulation is a reference to a regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

## **General**

**3.—**(1) Subject to the following provisions of these Regulations, the non-domestic rate in respect of any lands and heritages for the prescribed financial year shall be levied—

(a) in any case where a notional rateable value is determined under regulation 4 for that financial year for any lands and heritages to which that regulation applies, according to that notional rateable value; and

(b) in any other case, in accordance with the provisions of section 7 of the 1975 Act(9) (rates to be levied according to the rateable value appearing in the valuation roll).

(2) Paragraph (1) is without prejudice to any relief, remission or reduction which may be, or may be required to be, given under any enactment from the amount of the non-domestic rate payable for the prescribed financial year.

## **Notional rateable value**

**4.—**(1) There shall be determined a notional rateable value for the prescribed financial year for any lands and heritages to which this regulation applies in any of the cases falling within paragraph (2) or (3).

(2) In any case where the rateable value of any lands and heritages appearing in the valuation roll on 1st April 1990 is equal to or greater than the upper limit for those lands and heritages for

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(7) Section 3A was substituted for section 3 of the 1987 Act by the Local Government and Housing Act 1989, section 140(1). The non-domestic rates are prescribed for 1990-91 by S.I. [1989/2462](#).

(8) The definition of “part residential subjects” has been varied by S.I. [1988/1477](#) and [1989/241](#) (revoked with effect from 1st April 1990).

(9) Section 7 was amended by the 1987 Act, Schedule 1, paragraph 32 and the Local Government and Housing Act 1989, Schedule 6, paragraph 6.

the prescribed financial year, the notional rateable value for that financial year of those lands and heritages shall be that upper limit.

(3) In any case where the rateable value of any lands and heritages appearing in the valuation roll on 1st April 1990 is equal to or lower than the lower limit for those lands and heritages for the prescribed financial year, the notional rateable value for that financial year of those lands and heritages shall be that lower limit.

(4) The upper limit for any lands and heritages for the prescribed financial year shall be determined by multiplying the rateable value of those lands and heritages appearing in the valuation roll on 31st March 1990 by—

- (a) 1.613 in the case where the rateable value of those lands and heritages appearing in the valuation roll on 1st April 1990 is £10,000 or more; or
- (b) 1.546 in the case where the rateable value of those lands and heritages appearing in the valuation roll on 1st April 1990 is under £10,000.

(5) The lower limit for any lands and heritages for the prescribed financial year shall be determined by multiplying the rateable value of those lands and heritages appearing in the valuation roll on 31st March 1990 by—

- (a) 1.189 in the case where the rateable value of those lands and heritages appearing in the valuation roll on 1st April 1990 is £10,000 or more; or
- (b) 1.122 in the case where the rateable value of those lands and heritages appearing in the valuation roll on 1st April 1990 is under £10,000.

#### **Application of regulation 4**

**5.—**(1) Subject to the following provisions of these Regulations, the lands and heritages to which regulation 4 applies are any lands and heritages falling within the following class of lands and heritages, namely any lands and heritages—

- (a) in respect of which there is an entry relating to the same lands and heritages in the valuation roll on both 31st March 1990 and 1st April 1990; and
- (b) which are in the same occupation on both dates.

(2) Paragraph (1) does not apply to any lands and heritages or any class of lands and heritages which are prescribed by an Order under section 6 of the 1975 Act<sup>(10)</sup> except by the following Orders:—

- (a) the Docks and Harbours (Rateable Values) (Scotland) Order 1990<sup>(11)</sup>;
- (b) the Forth Ports Authority (Rateable Values) (Scotland) Order 1990<sup>(12)</sup>;
- (c) the Caledonian MacBrayne Limited (Rateable Values) (Scotland) Order 1990<sup>(13)</sup>;
- (d) the Industrial and Freight Transport (Rateable Values) (Scotland) Order 1990<sup>(14)</sup>; and
- (e) the Mines and Quarries (Rateable Values) (Scotland) Order 1990<sup>(15)</sup>.

(3) Regulation 4 will cease to apply to any lands and heritages on the date on which—

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<sup>(10)</sup> Section 6(1) to (7) of the 1975 Act was substituted by the Local Government (Scotland) Act 1978 (c. 4), section 1, and section 6 was subsequently amended by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 11 and the Local Government and Housing Act 1989 (c. 42), Schedule 6, paragraph 18.

<sup>(11)</sup> S.I. 1990/817.

<sup>(12)</sup> S.I. 1990/818.

<sup>(13)</sup> S.I. 1990/819.

<sup>(14)</sup> S.I. 1990/820.

<sup>(15)</sup> S.I. 1990/823.

- (a) they cease to be in the same occupation as they were in on 1st April 1990, if there was a notional rateable value determined for those lands and heritages which was the upper limit in terms of regulation 4(2); or
- (b) any alteration takes effect to the entry relating to those lands and heritages which appeared in the valuation roll on 1st April 1990, where such alteration is in consequence of -
  - (i) any enlargement of those lands and heritages by the inclusion of other lands and heritages or part or parts thereof which were separately entered in the valuation roll on 1st April 1990; or
  - (ii) any reduction in extent of these lands and heritages by the separation of any part or parts thereof which will become lands and heritages appropriate for separate entry in the valuation roll, or for inclusion with other lands and heritages which are separately entered in that roll; or
- (c) any deletion of the entry relating to those lands and heritages in the valuation roll takes effect, irrespective of whether or not that entry is replaced by other entries in that roll which comprise or include part of those lands and heritages.

### **Part residential subjects**

**6.—**(1) This regulation adapts these Regulations in relation to their application to lands and heritages which are part residential subjects both on 31st March 1990 and on 1st April 1990.

(2) Any reference in regulation 4 to the rateable value of lands and heritages appearing in the valuation roll on 31st March 1990 or on 1st April 1990 shall refer, in any case where those lands and heritages are part residential subjects to which this regulation applies, to the whole rateable value of those part residential subjects and not to any part of that value which is shown in the apportionment note as relating to the residential or, as the case may be, the non-residential use made of those subjects.

(3) Where there is a notional rateable value determined under regulation 4 for the prescribed financial year for any part residential subjects to which this regulation applies—

- (a) that notional rateable value shall be apportioned as between the residential and non-residential use made of those subjects according to the same ratio as is shown for such uses in the apportionment note relating to those subjects appearing in the valuation roll on 1st April 1990; and, in such a case,
- (b) the reference in regulation 3(1)(a) to “that notional rateable value” shall be construed as referring to the part of the notional rateable value of those part residential subjects for that financial year which is so apportioned to the non-residential use of those subjects.

(4) For the purposes of regulation 5(1) and (3), any change of occupation of the residential part of any part residential subjects to which this regulation applies shall be disregarded.

**7.—**(1) This regulation adapts these Regulations in relation to their application to any lands and heritages—

- (a) which, on 31st March 1990, fall within any of the classes of lands and heritages prescribed in regulation 5 of the 1989 Regulations (classes of lands and heritages excepted from being part residential subjects); and
- (b) which, on 1st April 1990, became part residential subjects in consequence of the revocation of the 1989 Regulations by the 1990 Regulations.

(2) Any reference in regulation 4 to the rateable value of lands and heritages appearing on the valuation roll on 1st April 1990 shall be construed as referring to the part of that rateable value which is shown in the apportionment note appearing in the valuation roll on 1st April 1990 as relating to the non-residential use made of those subjects.

(3) Regulation 5(1) shall not prevent regulation 4 from applying to any lands and heritages to which this regulation applies, merely because the entry relating to those lands and heritages appearing in the valuation roll on 1st April 1990 includes those parts of those lands and heritages which were previously excluded from appearing in the valuation roll because they were domestic subjects by virtue of regulation 3(1) of the 1989 Regulations.

(4) For the purposes of regulation 5(3), any change of occupation of the residential part of any part residential subjects to which this regulation applies shall be disregarded.

**8.—(1)** This regulation adapts these Regulations in relation to their application to any lands and heritages—

- (a) which, on 31st March 1990, are part residential subjects; and
- (b) which, on 1st April 1990, are no longer part residential subjects.

(2) Any reference in regulation 4 to the rateable value of lands and heritages appearing on the valuation roll on 31st March 1990 shall be construed as referring to the part of that rateable value which is shown in the apportionment note appearing in the valuation roll on 31st March 1990 as relating to the non-residential use of those subjects.

(3) For the purposes of regulation 5(1) any change of occupation of the residential part of any part residential subjects to which this regulation applies shall be disregarded.

#### **Increases in rateable value after 1st April 1990**

**9.—(1)** This regulation applies where—

- (a) there is a notional rateable value determined for any lands and heritages for the prescribed financial year under regulation 4; and
- (b) the rateable value of those lands and heritages which appeared in the valuation roll on 1st April 1990 is increased with effect from a date later than that date, except in the circumstances described in regulation 5(3)(b)(i).

(2) In any case to which this regulation applies, the reference in regulation 3(1)(a) to “that notional rateable value” shall be construed, as from the date from which the increase in the rateable value of those lands and heritages takes effect, as referring to the sum of—

- (a) the notional rateable value for those lands and heritages for the prescribed financial year; and
- (b) the amount by which the rateable value of those lands and heritages then appearing in the valuation roll has been increased from the amount which appeared in that roll on 1st April 1990.

#### **Decreases in rateable value after 1st April 1990**

**10.—(1)** This regulation applies where—

- (a) there is a notional rateable value determined for any lands and heritages for the prescribed financial year under regulation 4; and
- (b) the rateable value of those lands and heritages which appeared in the valuation roll on 1st April 1990 is decreased with effect from a date later than that date, except in the circumstances described in regulation 5(3)(b)(ii).

(2) In any case to which this regulation applies, the reference in regulation 3(1)(a) to “that notional rateable value” shall be construed, as from the date from which the reduction in the rateable value of those lands and heritages takes effect, as referring to the notional rateable value for those lands and heritages for the prescribed financial year as reduced by the product of the following formula:

$$\frac{A \times C}{B}$$

where—

- a A is the notional rateable value of those lands and heritages for the prescribed financial year;
- b B is the amount of the rateable value of those lands and heritages which appeared in the valuation roll on 1st April 1990; and
- c C is the amount of the reduced rateable value of those lands and heritages then appearing in the valuation roll.

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

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

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## EXPLANATORY NOTE

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

These Regulations make provision as to the rateable value in accordance with which the non-domestic rate will be levied for the financial year 1990-91.

Regulation 3 provides that the non-domestic rate should be levied in the normal way according to the rateable value appearing in the valuation roll, except in the case where a notional rateable value is determined for any lands and heritages to which regulation 4 applies, in which case it is to be levied according to that notional rateable value.

Regulation 4 makes provision for determining a notional rateable value of any lands and heritages to which that regulation applies in certain cases. Where the rateable value of those lands and heritages on 1st April 1990 is equal to or greater than “the upper limit”, then the notional rateable value for those lands and heritages is the upper limit. Correspondingly, where the rateable value for those lands and heritages on that date is equal to or lower than “the lower limit” then the notional rateable value is that “lower limit”.

The broad effect of “the upper limit” mentioned in regulation 4 is to provide that increases in rateable value resulting from the revaluation of non-domestic property effective from 1st April 1990 will, for the purpose of determining the non-domestic rate bill, be no greater than 20 per cent in excess of the average increase in rateable values for all lands and heritages, or 15 per cent in the case of those lands and heritages with rateable values on 1st April 1990 of less than £10,000. This has the effect of limiting increases in non-domestic rate bills resulting purely from the revaluation to 20 per cent or 15 per cent, depending upon whether the rateable value of the lands and heritages is £10,000 or more, or is less than £10,000.

The loss in non-domestic rate income resulting from the application of these upper limits is offset by placing lower limits below which rateable values cannot fall on revaluation for the purpose of determining non-domestic rate bills. Again, the “lower limit” for lands and heritages with rateable values on 1st April 1990 of less than £10,000 is more advantageous to the ratepayer than in the case of those with rateable values of £10,000 or more.

Regulation 5 provides that regulation 4 applies to any lands and heritages for which there is an entry in the valuation roll on both 31st March 1990 and 1st April 1990 and which are in the same occupation on both dates. Regulation 4 does not, however, apply to lands and heritages for which a rateable value is prescribed or determined under an order made under section 6 of the Local Government (Scotland) Act 1975, except in certain specified cases. Provision is also made as to when regulation 4 ceases to apply to lands and heritages.

The remaining provisions of the Regulations make special provision for cases—

- (a) where the lands and heritages constitute part residential subjects either on 31st March 1990 or on 1st April 1990 or on both dates (regulations 6, 7 and 8); and
- (b) where there is a notional rateable value determined for any lands and heritages and the actual rateable value of them is either increased or decreased with effect from a date later than 1st April 1990 (regulations 9 and 10).