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STATUTORY INSTRUMENTS

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**1992 No. 2184 (S.218)**

**RATING AND VALUATION**

**The Non-Domestic Rating (Payment of Interest) (Scotland) Regulations 1992**

<i>Made</i>	- - - -	<i>9th September 1992</i>
<i>Laid before Parliament</i>		<i>10th September 1992</i>
<i>Coming into force</i>	- -	<i>1st October 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 9A of the Local Government (Scotland) Act 1975(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 Non-Domestic Rating (Payment of Interest) (Scotland) Regulations 1992 and shall come into force on 1st October 1992.

**Interpretation**

2.—(1) In these Regulations, except where the context otherwise requires,—

“the first payment date” means the earliest date on which any part of an amount being repaid by a rating authority was paid to them;

“liability” means a person’s liability for rates in respect of the lands and heritages in question;

“overpayment” means—

- (a) in relation to the first (or only) relevant period, the amount by which the total of the sums paid in respect of rates by the ratepayer in that relevant period exceeds his liability for that period, increased, in the case of an overpayment in error for which the first payment date was prior to 1st April 1990, by the amount by which the total of the sums so paid in error between the first payment date and 1st April 1990 exceeds his liability for the period between those dates; and
- (b) in relation to any other relevant period, the amount by which the total of the sums paid in respect of rates by the ratepayer—

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(1) 1975 c. 30; section 9A was inserted by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 13 and is substituted, with effect from 1st October 1992, by the Local Government Finance Act 1992 (c. 14), section 110(4) and S.I. 1992 No. 2183 (C.76) (S.217).

- (i) in that relevant period;
- (ii) in each earlier relevant period; and
- (iii) in the case of an overpayment in error for which the first payment date was prior to 1st April 1990, in the period between the first payment date and 1st April 1990; exceeds his liability for those periods, disregarding any amount constituting an overpayment in relation to any earlier relevant period;

“relevant date” means—

- (a) in the case of a repayment arising from a payment of rates made in error, the later of—
  - (i) the first payment date; and
  - (ii) 1st April 1990; and
- (b) in any other case, the effective date of the alteration of a valuation on a valuation roll which gave rise to the repayment in question;

“repayment” means the repayment, or as the case may be the crediting, by a rating authority of an amount in respect of overpaid rates;

“repayment day” means the day on which a repayment is or was made;

“the repealed provision” means section 9A of the Local Government (Scotland) Act 1975 as in force immediately prior to 1st October 1992;

“year” means any period of twelve months beginning with 1st April.

(2) For the purposes of these Regulations—

- (a)
  - (i) the period commencing on 1st April of the year in which the repayment day falls and ending with the day immediately before that day is a relevant period if the person’s liability subsists for the whole of that period;
  - (ii) where the person’s liability subsists only for part of that period, that part is a relevant period;
  - (iii) any other complete year within the period beginning with the first day of the year in which the relevant date falls and ending on the day immediately preceding the repayment day is a relevant period if the person’s liability subsists for the whole of that year; and
  - (iv) where the person’s liability subsists only for a part of such a year, that part is a relevant period; and
- (b)
  - (i) any complete year within the period beginning with the day after the end of the relevant period and ending on the day immediately preceding the repayment day; and
  - (ii) any part of any other year within that period;are each subsequent periods in relation to that relevant period.

### **Entitlement to interest**

3.—(1) Subject to paragraph (2), where any amount has been paid to a rating authority in respect of rates either—

- (a) in error; or
- (b) in consequence of the entry on to a valuation roll in force on or after 1st April 1990 of a valuation which has subsequently been reduced;

and the rating authority make, or have after that date made, a repayment of the amount, the authority shall also pay to the person to whom the repayment is or was made interest on the amount, calculated in accordance with regulation 4 or, as the case may be, regulation 5 or 6.

(2) Where—

- (a) such a repayment as is referred to in paragraph (1) is, or has been, made to a person by a rating authority;
- (b) the rating authority have obtained against that person a summary warrant or a decree in an action for payment in respect of rates for a year, or part of a year, payable as regards the same lands and heritages as those by reference to which the overpayment of rates was made; and
- (c) that year was, or included, a relevant period;

paragraph (1) shall not apply in respect of such part of the repayment as is referable to the overpayment in relation to that relevant period.

#### **Calculation of interest — repayment on or after 1st October 1992**

4.—(1) Where such a repayment as is referred to in paragraph (1) of regulation 3 is made by a rating authority on or after 1st October 1992, the amount of interest payable shall be calculated—

- (a) in a case where the repayment day falls within the same year as the relevant date and liability subsists on the day before the repayment day, in accordance with the formula—

$$\frac{A \times B \times R}{2 \times C \times 100}$$

where—

A is the amount of the overpayment in relation to the relevant period;

B is the number of days in the relevant period or, where the relevant date falls after the beginning of that period, the number of days in the period beginning on the relevant date and ending on the last day of the relevant period;

C is the number of days in the year; and

R is the appropriate rate, expressed as a percentage;

- (b) in any other case, by aggregating the amounts ascertained—

- (i) in respect of each relevant period, in accordance with the formula—

$$\frac{D \times E \times R}{2 \times C \times 100}$$

where—

C and R have the same meanings as in sub-paragraph (a);

D is the amount of the overpayment in relation to the period in question; and

E is the number of days in the relevant period or, where the period falls within the same year as the relevant date and that date falls after the beginning of that period, the number of days in the period beginning on the relevant date and ending on the last day of the relevant period; and

- (ii) in respect of each subsequent period, in accordance with the formula—

$$\frac{F \times G \times R}{C \times 100}$$

where—

C and R have the same meanings as in sub-paragraph (a);

F is the amount of the overpayment in relation to the relevant period to which the subsequent period in question relates; and

G is the number of days in the subsequent period in question.

- (2) In paragraph (1), “the appropriate rate” means—
- (a) in relation to a period constituting, or falling within, the year commencing on 1st April 1990, 14%;
  - (b) in relation to a period constituting, or falling within, the year commencing on 1st April 1991, 12%;
  - (c) in relation to a period constituting, or falling within, the year commencing on 1st April 1992, 9.5%
  - (d) in relation to a period constituting, or falling within, the year commencing on 1st April 1993 or any subsequent year, the rate equivalent to one percentage point less than the base rate quoted by the reference banks and effective on 15th March (or, if that day is not a business day, the next business day) of the preceding year; or if different base rates are quoted and so effective, the rate equivalent to one percentage point less than the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence.
- (3) In paragraph (2), “the reference banks”, in relation to any 15th March, are the seven largest institutions—
- (a) authorised by the Bank of England under the Banking Act 1987(2); and
  - (b) incorporated in and carrying on a deposit-taking business within the United Kingdom;

which quote a base rate in sterling effective as mentioned in sub-paragraph (d) of paragraph (2); and the size of an institution is to be determined by reference to the total gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985(3) denominated in sterling, as shown in its audited end-year accounts last published before the relevant 15th March.

### **Calculation of interest — repayment after 1st August 1991 and before 1st October 1992**

5.—(1) Where such a repayment as is referred to in paragraph (1) of regulation 3 was made by a rating authority after 1st August 1991 and before 1st October 1992, the amount of interest payable shall be calculated in accordance with paragraph (2) or, as the case may be, paragraph (3).

(2) Where the amount of interest in respect of a repayment would, if calculated in accordance with regulation 4, be less than the amount of interest in respect of that repayment paid by the rating authority under the repealed provision, no interest shall be payable in respect of that repayment under these Regulations.

(3) Where the amount of interest so calculated in respect of a repayment would be greater than the amount of interest in respect of that repayment paid by the authority under the repealed provision, the interest payable under these Regulations shall be calculated in accordance with the formula—

$$(H - J) + K$$

where—

H is the amount of interest on the repayment calculated in accordance with regulation 4;

J is the amount of interest in respect of that repayment paid under the repealed provision; and

K is the product of the formula specified in paragraph (4).

- (4) The formula specified in this paragraph is—

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(2) 1987 c. 22.

(3) 1985 c. 6; section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

$$\frac{(H - J) \times L \times 12}{36,600} + \frac{(H - J) \times M \times 9.5}{36,500}$$

where—

H and J have the same meanings as in paragraph (3);

L is the number of days beginning on the repayment day and ending on 31st March 1992; and

M is the number of days beginning on 1st April 1992 or, if the repayment day is later, on the repayment day and ending on the day on which interest payable in terms of this regulation is paid.

### **Calculation of interest — repayment on or before 1st August 1991**

6.—(1) Where such a repayment as is referred to in paragraph (1) of regulation 3 was made by a rating authority on or before 1st August 1991, the amount of interest payable shall be calculated in accordance with the formula—

$$H + N$$

where—

H has the same meaning as in paragraph (3) of regulation 5; and

N is the product of the formula specified in paragraph (2).

(2) The formula specified in this paragraph is—

$$\frac{H \times P \times 14}{36,500} + \frac{H \times Q \times 12}{36,600} + \frac{H \times R \times 9.5}{36,500}$$

where—

H has the same meaning as in paragraph (1);

P is the number of days beginning on the repayment day and ending on 31st March 1991;

Q is the number of days beginning on 1st April 1991 or, if the repayment day is later, on the repayment day and ending on 31st March 1992; and

R is the number of days beginning on 1st April 1992 and ending on the day on which interest payable in terms of this regulation is paid.

### **Recovery of interest**

7.—(1) Where—

(a) any amount in respect of rates is repaid, or has after 1st August 1991 been repaid, to any person by a rating authority either—

(i) in error; or

(ii) in consequence of the entry on to the valuation roll of a valuation which is subsequently increased;

(b) any interest in respect of that amount is, or was, paid by the authority to the person under these Regulations or the repealed provision; and

(c) the authority recover the amount;

they may also recover interest in accordance with paragraph (2).

(2) The amount of interest which the rating authority may recover under paragraph (1) shall be equal to the amount of interest which would not have been paid had the amount of rates being recovered never been repaid to the person.

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

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St Andrew's House,  
Edinburgh  
9th September 1992

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

## EXPLANATORY NOTE

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

These Regulations provide for the payment of interest in certain cases where a rating authority in Scotland makes, or has since 1st April 1990 made, a repayment of rates, following on an overpayment in error or in consequence of the entry on to a valuation roll of a valuation which has subsequently been reduced.

Regulation 3 prescribes the circumstances in which interest is payable. Regulations 4 to 6 provide rules for calculating the amount of interest payable, depending on when the repayment in question was made. Regulation 7 enables a rating authority to recover interest paid in cases where they are recovering the principal sum which gave rise to that interest.