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STATUTORY INSTRUMENTS

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**1992 No. 58**

**The Ports Act 1991 (Levy on  
Disposals of Land, etc.) Order 1992**

PAYMENT — GENERAL

**Payment of levy — General**

**13.**—(1) Subject to the provisions of this Order, levy chargeable on a disposal shall be payable within the period beginning with the disposal date and ending with the quarter date next following the disposal date.

(2) Subject to paragraphs (3) and (4) below, the last day of every third month after the accounting reference date of a chargeable company is, for the purposes of this Order, a quarter date of the company.

(3) Subject to paragraph (4) below, if a quarter date falls less than 14 days after a disposal date in relation to a disposal in relation to which an amount of levy or interest is payable by the company, the quarter date in relation to the payability of that amount shall be the fourteenth day after the disposal date.

(4) If a day ascertained in accordance with paragraph (2) or (3) above is not a business day, the quarter date shall be the next succeeding business day.

(5) In paragraph (2) of this article “accounting reference date” means an accounting reference date within the meaning given by section 224 of the Companies Act 1985<sup>(1)</sup>.

**Payment of levy — Article 8(3) and 8(5) cases**

**14.**—(1) Subject to paragraph (2) below—

(a) in the case of a disposal for which article 8(3) provides—

(i) if the materiality threshold has been exceeded, levy on any gain accruing on the disposal shall be payable within the period beginning with the disposal date relating to the associated disposal which causes the minimum limit to be exceeded and ending with the quarter date next following that date;

(ii) if the materiality threshold has not been but is subsequently exceeded, levy on any such gain shall be payable within the period specified in sub-paragraph (b) below;

(b) in the case of a disposal for which article 8(5) provides, levy shall be payable within the period beginning with the disposal date relating to the disposal which causes the materiality threshold to be exceeded and ending with the quarter date next following that date.

(2) Where—

(a) by virtue of any provision of this Order, the consideration for a disposal is deemed to be increased by reason of a subsequent event, or by reason of a subsequent event a disposal ceases by virtue of paragraph (2) of article 25 to be disregarded; and

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(1) 1985 c. 6; section 224 was inserted by section 3 of the Companies Act 1989 (c. 40).

(b) the minimum limit or the materiality threshold is in consequence exceeded; sub-paragraph (a) or (b) of paragraph (1) above shall apply as if the reference to the disposal date relating to the disposal which causes the minimum limit or, as the case may be, the materiality threshold, to be exceeded were a reference to the date on which the subsequent event occurs.

### **Interest**

**15.**—(1) Subject to the provisions of this Order, a chargeable company which fails to pay an amount of levy within the period within which it is payable in accordance with this Order shall also pay to the appropriate Minister interest on that amount at the rate applicable under paragraph (2) below from the first day after the end of that period until that amount is paid.

(2) The rate applicable under this paragraph is—

- (a) in respect of the period beginning with the first day referred to in paragraph (1) above and ending with the annual reporting date relating to the disposal period in which that first day falls, a rate equal to—
  - (i) base rate plus one per cent; multiplied by—
  - (ii) A, where A is the difference between 100 per cent and the current rate of corporation tax; and
- (b) in respect of the period beginning with the first day after that annual reporting date and ending with the day on which the amount of levy is paid, a rate equal to—
  - (i) base rate plus three per cent; multiplied by—
  - (ii) A, where A is the difference between 100 per cent and the current rate of corporation tax;

in each case compounded every three months.

- (a) (3) (a) In this Order, a reference to base rate, in relation to a period in respect of which interest is payable, shall be construed in accordance with the following provisions of this paragraph.
- (b) If there is in respect of that period one, and only one, published annual base rate of the Bank of England, a reference to base rate is a reference to that rate.
- (c) If there is in respect of one part of that period a published annual base rate of the Bank of England which is different from such rate in respect of each of the one or more other parts of that period, a reference to base rate is a reference to the time-weighted average of such rates over that period.
- (d) If there is in respect of that period no published annual base rate of the Bank of England, a reference to base rate means the average of the time-weighted averages of the base lending rates over that period of—
  - (i) Bank of Scotland,
  - (ii) Barclays Bank plc,
  - (iii) Lloyds Bank plc,
  - (iv) Midland Bank plc,
  - (v) National Westminster Bank plc, and
  - (vi) The Royal Bank of Scotland plc.
- (e) If there is a published annual base rate of the Bank of England in respect of each of one or more parts of that period but not in respect of every part of that period, a reference to base rate is a reference to the time-weighted average of—

- (i) the published annual base rate of the Bank of England or the time-weighted average of such published annual base rates for the part or parts in respect of which there is such a published annual base rate; and
- (ii) the time-weighted averages of the bank lending rates over the remainder of the said period of the banks specified in sub-paragraph (d) above.

### **Payment notice**

**16.**—(1) Subject to paragraph (2) below, when a chargeable company pays levy or interest on unpaid levy, it shall at the same time give to the appropriate Minister a notice in writing in such form as he may require stating the sum paid, the liability in respect of which it is paid, and the manner in which it has been computed.

(2) This article does not apply in respect of a payment which is made on an annual reporting date and accompanies a disposal statement.

### **Repayment — Error, mistake or recomputation**

**17.**—(1) If a chargeable company which has paid levy or interest on unpaid levy alleges that the payment was excessive—

- (a) by reason of some error or mistake; or
- (b) because any amount which, on the basis of the facts as they were or appeared to be at the date of payment, was or appeared to be payable is shown by subsequent events (including the operation of section 40(2) or section 41(2) of the 1979 Act, as they apply for the purposes of section 17 of the 1991 Act and this Order) not to have been payable,

the company may by notice in writing at any time make a claim to the appropriate Minister for repayment.

(2) On receiving the notice, the appropriate Minister shall inquire into the matter and if an excessive payment has been made for a reason mentioned in paragraph (1) above he shall repay the amount (whether levy or interest on unpaid levy or both) which should not have been paid, within 20 business days of the date of receipt of the notice, together with interest on that amount at base rate calculated from the date of payment to the Minister until the date of repayment by him.

(3) If the chargeable company disputes the decision of the appropriate Minister on the company's claim for repayment, article 38 shall apply for the purpose of resolving the dispute; and if a referee determines that any amount paid to the appropriate Minister (whether levy or interest on unpaid levy or both) should not have been paid, the appropriate Minister shall repay such amount, within 20 business days of the date of such determination, together with interest on that amount at base rate from the date of payment to the Minister until the date of repayment by him.

(4) If the appropriate Minister is by virtue of article 22, 32 or 35 required to make a repayment of any amount (whether of levy or interest on unpaid levy or both), the repayment—

- (a) if required by virtue of article 22 or (in the case of a recomputation under article 29) by virtue of article 32, shall carry interest from the first day after the quarter date next following the event which gives rise to the requirement for repayment;
- (b) if required by virtue of article 32 (in the case of a recomputation under article 30) or by virtue of article 35, shall carry interest from the date on which the chargeable company paid to the Minister the amount to be repaid;

until the repayment is made, at base rate.