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STATUTORY INSTRUMENTS

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**1996 No. 3070 (S.234)**

**LOCAL GOVERNMENT, SCOTLAND**

**The Non-Domestic Rating Contributions  
(Scotland) Regulations 1996**

<i>Made</i>	- - - -	<i>5th December 1996</i>
<i>Laid before Parliament</i>		<i>9th December 1996</i>
<i>Coming into force</i>	- -	<i>31st December 1996</i>

The Secretary of State, in exercise of the powers conferred on him by sections 113(2) and 116(1) of, and paragraphs 10, 11(5)(a) and 12 of Schedule 12 to, the Local Government Finance Act 1992<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Non-Domestic Rating Contributions (Scotland) Regulations 1996 and shall come into force on 31st December 1996.

(2) These Regulations shall not apply in respect of any year beginning prior to 1st April 1997.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government Finance Act 1992;

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

“the 1962 Act” means the Local Government (Financial Provisions etc.) (Scotland) Act 1962<sup>(3)</sup>;

“the 1966 Act” means the Local Government (Scotland) Act 1966<sup>(4)</sup>;

“authority” means a local authority;

“old authority” means a regional or islands council;

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(1) 1992 c. 14; section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 10 of Schedule 12 was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 176(19).

(2) 1956 c. 60.

(3) 1962 c. 9.

(4) 1966 c. 51.

“provisional amount” means the provisional amount arrived at under paragraph 11(2) of Schedule 12 to the Act as regards an authority for a year, or the amount for the time being treated as that amount in accordance with regulation 6 of these Regulations;

“relevant day” means a day in a relevant year;

“relevant year” means a year for which a calculation of a non-domestic rating contribution or a calculation or recalculation of a provisional amount is being made;

“year” means a financial year.

### **Calculation of non-domestic rating contributions**

3. The rules for the calculation under paragraph 11 of Schedule 12 to the Act of an authority’s non-domestic rating contribution for a year are the rules contained in Schedule 1 to these Regulations.

### **Assumptions relating to provisional amounts**

4. A calculation under paragraph 11(2) of Schedule 12 to the Act shall be made on the basis of the information before the authority at the time they make the calculation and subject to the assumptions prescribed in Schedule 2 to these Regulations.

### **Recalculation of provisional amounts**

5.—(1) Regulation 6 below applies as regards an authority for a year if –

- (a) a provisional amount has been arrived at as regards the authority for the year; and
- (b) the prescribed conditions are fulfilled.

(2) The prescribed conditions are–

- (a) that the authority have on a day in the year calculated an amount, under paragraph (3) below, which is equal to or less than 97% of the provisional amount for the authority for the year;
- (b) that the authority have notified the Secretary of State of the amount calculated under paragraph (3) below and of the day on which that amount was calculated; and
- (c) that the Secretary of State believes that the amount calculated by the authority under paragraph (3) below is likely to have been calculated in accordance with that paragraph and informs the authority of his belief.

(3) The amount calculated under this paragraph is the total of the amounts calculated in accordance with Parts I and II of Schedule 3 to these Regulations.

6. Where this regulation applies, for the purposes of paragraph 11 of Schedule 12 to the Act the provisional amount for the authority for the year is to be treated as being the amount resulting from the calculation under regulation 5(3) above by virtue of which this regulation applies.

### **Repayments as a result of a recalculation**

7.—(1) Where regulation 6 applies as regards an authority for a year, the Secretary of State shall repay to the authority at such time as he decides the amount calculated in accordance with paragraph (2) below.

(2) The amount is the difference between–

- (a) the total of the amounts paid by the authority to the Secretary of State, under paragraph 11(4) of Schedule 12 to the Act, on relevant days preceding the day on which the calculation referred to in regulation 6 was made; and
- (b) the amount calculated in accordance with the formula–

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

where—

A is the amount being treated as the provisional amount for the authority under regulation 6;

B is the provisional amount having effect for the authority immediately prior to application of that regulation; and

C is the total of the amounts directed by the Secretary of State to be paid by the authority, under paragraph 11(4) of Schedule 12 to the Act, on relevant days preceding the day on which the calculation referred to in regulation 6 was made.

### **Reduced payments as a result of a recalculation**

8. Where regulation 6 applies as regards an authority for a year, the amount of an instalment directed by the Secretary of State to be paid by the authority, under paragraph 11(4) of Schedule 12 to the Act, on or after the day on which the calculation referred to in regulation 6 was made shall be treated as being the amount calculated in accordance with the formula—

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

where—

A and B have the same meanings as in regulation 7; and

D is the amount the Secretary of State directed to be paid by the authority in the instalment.

### **Information which may be left out of account in making a calculation**

9. In making a calculation under paragraph 11(5)(a) of Schedule 12 to the Act, an authority may leave out of account any information which—

- (a) it is not reasonably practicable for them to take into account; and
- (b) was received by them after the end of the year to which the calculation relates.

### **Revocations**

10.—(1) Subject to paragraph (2) below, the Regulations specified in Schedule 4 to these Regulations are hereby revoked.

(2) Nothing in paragraph (1) above shall affect the operation of the Regulations specified in Schedule 4 to these Regulations in respect of any year beginning prior to 1st April 1997.

Scottish Office  
5th December 1996

*George Kynoch*  
Parliamentary Under Secretary of State,

## SCHEDULE 1

Regulation 3

## RULES FOR THE CALCULATION OF NON-DOMESTIC RATING CONTRIBUTIONS

1.—(1) In relation to each authority, there shall be calculated for the year commencing on 1st April 1997 and each subsequent year the amounts described in paragraphs 2 to 11 of this Schedule.

(2) From the amount described in paragraph 2 there shall be deducted the amounts described in paragraphs 3 to 9, and to that amount there shall be added the amounts described in paragraphs 10 and 11.

(3) The amount calculated under sub-paragraph (2) above shall be the authority's non-domestic rating contribution for the year.

**Gross amount due to the authority**

2. The amount which is the total of—

- (a) the amounts paid or payable to the authority in respect of non-domestic rates for the relevant year; and
- (b) the amounts paid or payable to the authority by way of a contribution in aid for the relevant year made in respect of lands and heritages which, but for any rule of law relating to Crown exemption, would be liable to non-domestic rates (including amounts paid or payable under section 20 of the 1956 Act);

without taking into account—

- (i) any apportionment carried out by the assessor under section 24A(1) of the 1966 Act<sup>(5)</sup>;
- (ii) any remission granted by the authority under section 25A of that Act<sup>(6)</sup>; or
- (iii) any reduction or remission granted by the authority under section 4(5) of the 1962 Act<sup>(7)</sup>.

**Deductions from gross amount**

3. The amount which is the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any apportionment carried out by the assessor under section 24A(1) of the 1966 Act were taken into account.

4. The amount which is 75% of the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any remission granted by the authority under section 25A of the 1966 Act were taken into account.

5. The amount which is the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any reduction or remission granted by the authority under section 4(5)(c) of the 1962 Act were taken into account.

6. The amount which is 75% of the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any reduction or remission granted by the authority under subsection (5) of section 4 of the 1962 Act (other than a reduction or remission under paragraph (c) of that subsection) were taken into account.

7. The amounts which—

(5) Section 24A was inserted by the Local Government etc. (Scotland) Act 1994, section 155.

(6) Section 25A was inserted by the Local Government etc. (Scotland) Act 1994, section 156.

(7) Section 4(5) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 5(1)(b) and by the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 57.

- (a) are payable to the authority in respect of non-domestic rates for the relevant year or a preceding year commencing after 31st March 1993;
  - (b) in the opinion of the authority are bad debts which should be written off or are doubtful debts for which provision should be made; and
  - (c) have not been taken into account as amounts described in this paragraph in a calculation made under paragraph 11(5) of Schedule 12 to the Act for a preceding year.
- 8.** The amounts which—
- (a) as amounts paid or payable to the authority or to an old authority in respect of non-domestic rates for a preceding year were taken into account by the authority in question in the calculation made under paragraph 11(5) of Schedule 12 to the Act for that year;
  - (b) have since been repaid or are now repayable by the authority; and
  - (c) have not been taken into account as amounts described in this paragraph in a calculation made for a preceding year under paragraph 11(5) of Schedule 12 to the Act.
- 9.** The amounts which have been paid in the relevant year by the authority under the Non-Domestic Rating (Payment of Interest) (Scotland) Regulations 1992<sup>(8)</sup> as interest in respect of overpaid non-domestic rates.

#### **Additions to gross amount**

- 10.** The amounts which—
- (a) have been taken into account as amounts described in paragraph 7 of this Schedule in a calculation made for a preceding year under paragraph 11(5) of Schedule 12 to the Act;
  - (b) have now been paid or are now payable to the authority; and
  - (c) have not been taken into account as amounts described in this paragraph in such a calculation.
- 11.** The amounts which—
- (a) were amounts payable to the authority or to an old authority in respect of non-domestic rates for a preceding year or by way of such a contribution for that year as is described in sub-paragraph (b) of paragraph 2 of this Schedule;
  - (b) were not taken into account by the authority in question as amounts described in that paragraph in the calculation made for that year under paragraph 11(5) of Schedule 12 to that Act;
  - (c) have now been paid or are now payable to the authority; and
  - (d) have not been taken into account as amounts described in this paragraph in a calculation made for any preceding year under paragraph 11(5) of Schedule 12 to the Act.

## **SCHEDULE 2**

Regulation 4

### **ASSUMPTIONS RELATING TO PROVISIONAL AMOUNTS**

**1.—(1)** The assumptions prescribed in relation to paragraph 2 of Schedule 1 to these Regulations are the assumptions prescribed in paragraph 2 below.

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<sup>(8)</sup> S.I. 1992/2184.

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

(2) The assumptions prescribed in relation to paragraphs 3, 4, and 7 of that Schedule are the assumptions prescribed in paragraphs 3 to 5 below.

#### **Assumptions as to gross amount**

2.—(1) It shall be assumed that the occupier of lands and heritages on each relevant day will be the occupier on the day on which the calculation under paragraph 11(2) of Schedule 12 to the Act is made.

(2) Where on the day on which the calculation under paragraph 11(2) of Schedule 12 to the Act is made lands and heritages are unoccupied, it shall be assumed that they will remain unoccupied on each relevant day.

(3) It shall be assumed that the total amount described in paragraph 2 of Schedule 1 to these Regulations is the amount calculated under that paragraph in accordance with the assumptions prescribed in sub-paragraphs (1) and (2) above, multiplied by 1.003.

#### **Assumptions as to deductions from to gross amount**

3. Where on the day on which the calculation under paragraph 11(2) of Schedule 12 to the Act is made an apportioned value is being treated, in terms of section 24A(2) of the 1966 Act, as the rateable value of any lands and heritages, it shall be assumed for the purpose of calculating the amount described in paragraph 3 of Schedule 1 to these Regulations that that apportioned value will be so treated as the rateable value of those lands and heritages on each relevant day.

4. It shall be assumed that the amount described in paragraph 4 of Schedule 1 to these Regulations will be nil.

5.—(1) It shall be assumed that the amounts described in paragraph 7 of Schedule 1 to these Regulations will be 1% of the amount described in sub-paragraph (2) below.

(2) The amount referred to in sub-paragraph (1) above is the amount described in paragraph 2 of Schedule 1 to these Regulations (calculated in accordance with the provisions of paragraph 2 of this Schedule), less the deductions from that amount prescribed in paragraphs 3, 5 and 6 of Schedule 1 to these Regulations (calculated in accordance with the provisions of paragraph 3 of this Schedule).

## **SCHEDULE 3**

Regulation 5(3)

### **RECALCULATION OF PROVISIONAL AMOUNTS**

## **PART I**

### **DAYS PRECEDING THE DAY OF THE CALCULATION**

1.—(1) The amount calculated in accordance with this Part of this Schedule is an amount calculated, under regulation 3, as if it were a calculation under paragraph 11(5) of Schedule 12 to the Act of the authority's non-domestic rating contribution for the year.

(2) For the purposes of sub-paragraph (1) above, Schedule 1 to these Regulations shall have effect subject to the modification that references to the relevant year in that Schedule shall be treated as references to that part of the relevant year preceding the day on which the calculations in accordance with this Schedule are made.

## PART II

### DAYS ON AND AFTER THE DAY OF THE CALCULATION

**2.—**(1) The amount calculated in accordance with this Part of this Schedule is an amount calculated, under regulations 3 and 4, as if it were a calculation of the authority's non-domestic rating contribution for the year being made by them under paragraph 11(2) of Schedule 12 to the Act.

(2) For the purposes of sub-paragraph (1) above, Schedules 1 and 2 to these Regulations shall have effect subject to paragraph 3 of this Schedule.

**3.—**(1) The references in Schedule 1 to the relevant year shall be treated as references to that part of the relevant year after the day immediately preceding the day on which the calculations in accordance with this Schedule are made.

(2) The references in Schedule 2 to relevant days shall be treated as references to relevant days on and after the day on which the calculations in accordance with this Schedule are made.

### SCHEDULE 4

Regulation 10

#### REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
The Non-Domestic Rating Contributions (Scotland) Regulations 1992	S.I. <a href="#">1992/3061</a>
The Non-Domestic Rating Contributions (Scotland) Amendment Regulations 1993	S.I. <a href="#">1993/3059</a>
The Non-Domestic Rating Contributions (Scotland) Amendment Regulations 1994	S.I. <a href="#">1994/3146</a>
The Non-Domestic Rating Contributions (Scotland) Amendment Regulations 1995	S.I. <a href="#">1995/3177</a>

### EXPLANATORY NOTE

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

Under Part III of Schedule 12 to the Local Government Finance Act 1992, Scottish local authorities are required to pay amounts (called non-domestic rating contributions) to the Secretary of State. Payments in respect of a provisional amount of the contributions are made during the financial year, final calculations and payments being made after the year ends. These Regulations contain rules for the calculation of those contributions and apply from financial year 1997/98 onwards. The Non-Domestic Rating Contributions (Scotland) Regulations 1992 (and Regulations amending those Regulations) are revoked (regulation 10 and Schedule 4).

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

Regulation 3 and Schedule 1 provide for the calculation of a final non-domestic rating contribution which is broadly the same as the total payable to the local authority for a financial year in respect of non-domestic rates and contributions in aid in relation to Crown property. Provision is included in Schedule 1 for deductions in respect of reliefs and remissions granted on grounds of hardship or to charitable bodies and in respect of matters such as bad debts and repayments to ratepayers.

Regulation 4 and Schedule 2 provide for the assumptions which are to be made when calculating the provisional amount.

Regulations 5 and 6 provide that, where prescribed conditions are fulfilled, the amount calculated under regulation 4 will be replaced by an amount calculated under Schedule 3. These provisions will operate where the amounts expected to be received by the local authority in respect of non-domestic rates have been substantially reduced during the financial year.

Regulations 7 and 8 provide that, where a provisional amount has been recalculated under regulations 5 and 6, repayments will be made to the local authority and further amounts payable by the authority will be reduced.

Regulation 9 allows an authority, when calculating its final non-domestic rating contribution for a financial year, to leave out of account information which was received after the end of that year and which it is not reasonably practicable for them to take into account.