
WELSH STATUTORY INSTRUMENTS

2000 No. 948 (W. 41)

RATING AND VALUATION, WALES

The Docks and Harbours (Rateable Values) (Wales) Order 2000

Made - - - - *31st March 2000*

Coming into force - - *1st April 2000*

The National Assembly for Wales makes the following Order in exercise of the powers conferred on the Secretary of State by sections 140(4), 143(1) and (2) of, and paragraphs 3(1), (3) and (4) of Schedule 6 to the Local Government Finance Act 1988(1) and now vested in the National Assembly for Wales so far as exercisable in Wales.

Application, citation and commencement

1. This Order, which applies to Wales only, may be cited as the Docks and Harbours (Rateable Values) (Wales) Order 2000 and shall come into force on 1st April 2000.

Interpretation

2. In this Order —

“adjusted balance” (“balans wedi'i addasu”) in relation to an undertaking and a period means 92.5 per cent of the adjusted income of the undertaking for the period less 100 per cent of its adjusted expenditure for the period;

“adjusted expenditure” (“gwariant wedi'i addasu”) in relation to an undertaking and a period, means the amount of relevant expenditure of the undertaking for the period multiplied by the product of

$$\frac{P}{Y}$$

;

“adjusted income” (“incwm wedi'i addasu”) in relation to an undertaking and a period means the amount of relevant income of the undertaking for that period multiplied by the product of

$$\frac{P}{Y}$$

(1) 1988 c. 41. See section 146(6) for the definition of “prescribed”. Section 143(2) is amended by paragraph 72(2) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 3(1) of Schedule 6 is amended, and paragraphs 3(3) and 3(4) inserted, by paragraph 38(12) and (14) of Schedule 5 to the 1989 Act. These powers are devolved, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672); see the reference to the Local Government Finance Act 1988 in Schedule 1.

Where —

P is the retail prices index for September 1997, and

Y is the retail prices index for the September during the period in question, unless the base month for the index for that September differs from the base month for the index for September 1997, in which case Y is the figure calculated for the purposes of paragraph 5(5) of Schedule 7 to the Local Government Finance Act 1988 as the figure which would have been the index for the September falling during the period if the base month for the index had been the same in both cases;

“period” (“cyfnod”) in relation to an undertaking means the accounting period by reference to which the accounts relating to the undertaking are compiled;

“relevant balance” (“balans perthnasol”) in relation to an undertaking and a period means 92.5 per cent of the relevant income of that undertaking for the period, less 100 per cent of its relevant expenditure for the period;

“relevant expenditure” (“gwariant perthnasol”) in relation to an undertaking and a period means all expenditure included or to be included in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on under the authority referred to in article 3(1)(a) or otherwise, other than —

- (i) expenditure in respect of pilotage;
- (ii) expenditure —
 - (a) in relation to investments required to be shown in the accounts of the undertaking (other than expenditure in relation to investments in subsidiary companies);
 - (b) consisting of or relating to interest payable in respect of borrowing;
 - (c) consisting of payments for, or in connection with, the management of property which is let out and which is or forms part of a hereditament shown on any non-domestic rating list;
- (iii) expenditure incurred in respect of the disposal of land; and
- (iv) amounts written off in respect of depreciation;

“relevant income” (“incwm perthnasol”) in relation to an undertaking and a period means all income by way of revenue included or to be included in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on under the authority referred to in article 3(1)(a) or otherwise, but excluding —

- (i) income in respect of pilotage;
- (ii) income from —
 - (a) investments required to be shown in the accounts of the undertaking (other than investments in subsidiary companies);
 - (b) loans or deposits;
 - (c) rent or other payments receivable in consideration of the grant of permission for occupation or use of any property of the undertaking, or right over such property, which is or forms part of a hereditament which is shown on any non-domestic rating list;
 - (d) any sum receivable in respect of the disposal of land.

“subsidiary” (“is-gwmni”) has the meaning given by section 736 of the Companies Act 1985(2);

(2) 1985 c. 6. Section 736 was substituted by section 144(1) of the Companies Act 1989 c. 40.

“year” (“blwyddyn”), unless the context otherwise requires, means a chargeable financial year; and in relation to any year “relevant preceding year” (“blwyddyn flaenorol berthnasol”) means the year ending immediately before the year in question.

Application

- 3.—(1) This Order applies, except in the cases described in paragraphs (2) to (4) to:
- (a) any hereditament which consists of a dock or harbour undertaking carried on under authority conferred by or under any enactment, and
 - (b) in relation to a non-domestic rating list (the “relevant list”) compiled on 1st April 2000 in which such a hereditament falls to be shown.
- (2) This Order, does not apply where—
- (a) the relevant income of the dock or harbour undertaking was not more than £1,000,000:
 - (i) in any period of twelve months ending during the year ending with 31st March 1998, or, if there is none,
 - (ii) in the twelve months ending with a period which ends in that year (and if there is more than one such period, the later or latest of them), or, if there is none,
 - (iii) in the twelve months ending on 31st March 1998; or
 - (b) where the persons carrying on the dock or harbour undertaking use the dock or harbour exclusively or mainly for the purpose of bringing or receiving goods —
 - manufactured or produced by them;
 - or to be used by them for the manufacture or production of goods or electricity; or
 - to be sold by them; or
 - manufactured or produced by an associated body, and to be sold by that body.
- (3) For the purposes of paragraph (2), a body shall be treated as the associated body of any persons if —
- (a) it is a body corporate in relation to which those persons directly or indirectly own or control not less than 51 per cent of its issued share capital; or
 - (b) it is a body corporate in relation to which those persons and any other associated body or bodies of theirs directly or indirectly own or control not less than 52 per cent of its issued share capital.
- (4) Other than for the purposes of the calculation of relevant income or relevant expenditure, this Order does not apply to a hereditament occupied by the persons carrying on a dock or harbour undertaking which does not consist exclusively of operational land. In this paragraph, “operational land” means land which is used for the purpose of the carrying on of the undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purpose of carrying on or statutory undertakings (within the meaning of the Town and Country Planning Act 1990)(3).

Rateable values

4. —

(1) Paragraphs 2 to 2C of Schedule 6 to the Local Government Finance Act 1988(4) shall not apply to any hereditament to which this Order applies; and the rateable value of any such hereditament shall be determined in accordance with this article.

(2) Subject to paragraphs (4) and (5), the rateable value of any hereditament to which this order applies for the year beginning on 1st April 2000 shall be an amount equal to 20 per cent of the relevant balance of the undertaking for —

- (i) a period of twelve months ending during the year ending with 31st March 1998, or, if there is none,
- (ii) of the twelve months ending with a period which ends in that year (and if there is more than one such period, the later or latest of them), or, if there is none,
- (iii) the twelve months ending with 31st March 1998.

(3) Subject to paragraphs (4) to (6), for any subsequent year for which the relevant list has effect the rateable value of any hereditament to which this order applies shall be an amount equal to 20 per cent of the adjusted balance of the undertaking for —

- (i) a period of twelve months ending during the relevant preceding year, or, if there is none,
- (ii) the twelve months ending with a period which ends in that relevant preceding year (and if there is more than one such period, the later or latest of them) or, if there is none,
- (iii) the twelve months ending with that year.

(4) Where in relation to a year and an undertaking the amount equal to 20 per cent of X is greater than 13 per cent of Z, paragraph (2) or, as the case may be, paragraph (3) shall not apply, and the rateable value for that year shall be equal to 13 per cent of Z.

(5) Where in relation to a year and an undertaking the amount equal to 20 per cent of X is less than 5 per cent of Z, paragraph (2) or, as the case may be, paragraph (3) shall not apply, and the rateable value for that year shall be equal to 5 per cent of Z.

(6) Where in relation to a year beginning on or after 1st April 2001 and an undertaking the rateable value determined under paragraph (3), or, as the case may be, paragraph (4) or (5), would differ from the rateable value for the relevant preceding year by no more than 20 per cent of that rateable value, the paragraph in question shall not apply, and the rateable value for that year shall be the same as the rateable value for the relevant preceding year.

(7) For the purposes of paragraphs (4) and (5) —

X for the year beginning on 1st April 2000 is the relevant balance and for subsequent years is the adjusted balance;

Z for the year beginning 1st April 2000 is the relevant income and for subsequent years is the adjusted income;

X and Z shall be computed for the year beginning on 1st April 2000 for the period described in paragraph (2)(i) or, if there is no such period, for the period described in paragraph (2)(ii) or, if there is no such period, for the period described in paragraph (2)(iii);

X and Z shall be computed for subsequent years for the period described in paragraph (3)(i) or, if there is no such period, for the period described in paragraph (3)(ii) or, if there is no such period, for the period described in paragraph (3)(iii).

(8) Where (apart from this paragraph) any rateable value determined under this article would include a fraction of a pound —

- (a) if the fraction would exceed 50p it shall be made up to one pound, and

(4) Paragraph 2 is amended by, and paragraph 2A and 2B inserted by, paragraph 38(3) to (11) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42). Paragraph 2C is inserted by section 2 of the Local Government and Rating Act 1997 (c. 29).

(b) if the fraction would be 50p or less it shall be ignored.

Revocations and savings

5.—(1) Subject to paragraph (2), the following are hereby revoked —

The Docks and Harbours (Rateable Values) Order 1989⁽⁵⁾;

The Docks and Harbours (Rateable Values) (Amendment) Order 1994⁽⁶⁾.

(2) The Orders mentioned in paragraph (1) shall continue to have effect on and after 1st April 2000 for the purposes of, and for purposes connected with —

any alteration of a local non-domestic rating list compiled before 1st April 2000; or

any provision made by regulations under section 58⁽⁷⁾ (special provision for 1995 onwards) of the Local Government Finance Act 1988 as to the chargeable amount as regards a hereditament for a relevant period as defined in that section.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁸⁾.

31st March 2000

D. Elis Thomas
The Presiding Officer of the National Assembly

⁽⁵⁾ S.I. 1989/2473, amended by S.I. 1994/3280.

⁽⁶⁾ S.I. 1994/3280.

⁽⁷⁾ Section 58 is amended by paragraph 68 of Schedule 13 to the Local Government Finance Act 1992 (c. 14), section 2 of the Non-Domestic Rating Act 1994 (c. 3) and section 1 of the Local Government and Rating Act 1997 (c. 29).

⁽⁸⁾ 1998 c. 38.

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

EXPLANATORY NOTE

(This note does not form part of the Order.)

The National Assembly for Wales may provide by order, under paragraph 3(1) of Schedule 6 to the Local Government Finance Act 1988, that hereditaments, in Wales, of any class are not to be valued for non-domestic rating on the basis set out in paragraphs 2 to 2C of that Schedule (that is, by reference to the rent a hypothetical tenant would pay for the hereditament on an annual basis), but on the basis of rules set out in the order.

By article 3 of this Order the rateable value of hereditaments which consist of dock or harbour undertakings carried on under the authority of any enactment is to be determined on the basis of rules set out in article 4, except in the case of certain small undertakings, essentially those with a relevant income of less than £1,000,000 in 1998, and docks and harbours wholly or mainly used by the person operating them, or by associated persons, for their own purposes.

Article 4 provides that the rateable value of such hereditaments, for a chargeable financial year, shall be an amount equal to 20 per cent of the balance between an amount for the income and an amount for the expenditure of the undertaking (where both amounts are calculated in accordance with the Order) subject to a threshold.

Article 5 revokes, with savings, the provisions of the Docks and Harbours (Rateable Values) Order 1989 (as amended), in so far as it applied in respect of the local non-domestic rating lists for Wales compiled on 1st April 1990 and 1st April 1995.