SCOTTISH STATUTORY INSTRUMENTS

2005 No.126

RATING AND VALUATION

The Non-Domestic Rates (Levying) (Scotland) Regulations 2005

Made - - - -	*2nd March 2005*
Laid before the Scottish Parliament - - - -	*3rd March 2005*
Coming into force - -	*1st April 2005*

The Scottish Ministers, in exercise of the powers conferred upon them by section 153 of the Local Government etc. (Scotland) Act 1994(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Non Domestic Rates (Levying) (Scotland) Order 2005 and shall come into force on 1st April 2005.

Interpretation – general

2. In these Regulations–

"the 1962 Act" means the Local Government (Financial Provisions etc.) (Scotland) Act 1962(**2**);

"the 1966 Act" means the Local Government (Scotland) Act 1966(**3**);

"the 1975 Act" means the Local Government (Scotland) Act 1975(**4**);

"the 1978 Act means the Rating (Disabled Persons) Act 1978(**5**);

(**1**) 1994 c. 39. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) 1962 c. 9.
(**3**) 1966 c. 51.
(**4**) 1975 c. 30.
(**5**) 1978 c. 40.

"the 1992 Act" means the Local Government Finance Act 1992(**6**);

"the 1997 Act" means the Local Government and Rating Act 1997(**7**);

"new entry", in relation to a split, merged or reorganised entry, means an entry in the roll taking effect from the day on which the merged, split or reorganised entry takes effect;

"old entry", in relation to a merged, split or reorganised entry, means an entry in the roll for the day immediately prior to the day from which the merged, split or reorganised entry takes effect;

"part residential subjects" has the meaning assigned to it in section 99(1) of the 1992 Act;

"rateable value", in relation to lands and heritages and a particular date, means–

(a) in the case of part residential subjects, the rateable value entered in the roll for that date and apportioned to the non residential use of those subjects; and

(b) in any other case, the rateable value entered in the roll for that date in respect of those lands and heritages,

and includes a rateable value so entered with retrospective effect;

"rates" means non domestic rates levied under section 7B of the 1975 Act(**8**);

"the relevant year" means the period of 12 months beginning with 1st April 2005; and

"the roll" means a valuation roll made up under section 1 of the 1975 Act(**9**).

Interpretation – mergers

3. In these Regulations–

(a) "a merged entry" means any entry in the roll taking effect on a day in the relevant year as a result of lands and heritages shown in two or more old entries being shown in a single new entry, where–

(i) none of the lands and heritages shown in the relevant old entries are shown in a new entry, other than in the merged entry; and

(ii) the merged entry does not show any lands and heritages shown in an old entry, other than in the relevant old entries; and

(b) "the relevant old entries", in relation to a merged entry, means the old entries which showed the lands and heritages shown in the merged entry.

Interpretation – splits

4. In these Regulations–

(a) "a split entry" means any entry in the roll taking effect on a day in the relevant year as a result of lands and heritages shown in a single old entry being shown in two or more new entries, where–

(i) none of those new entries show lands and heritages shown in an old entry, other than in the relevant old entry; and

(ii) no lands and heritages shown in the relevant old entry are shown in a new entry, other than in those new entries; and

(b) "the relevant old entry", in relation to a split entry, means the old entry which showed the lands and heritages shown in the split entry.

(**6**) 1992 c. 14.
(**7**) 1997 c. 29.
(**8**) Section 7B was inserted by the Local Government Finance Act 1992 (c. 14), section 110(2) and was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 100(4).
(**9**) Section 1 was repealed in part by the Local Government and Rating Act 1997 (c. 29), Schedule 4.

Interpretation – reorganisations

5. In these Regulations–

(a) "a reorganised entry" means any entry in the roll taking effect on a day in the relevant year which is not a split or merged entry, and which shows lands and heritages–

(i) which were to any extent shown in two or more old entries; or

(ii) which are part only of lands and heritages shown in a single old entry and the other part of which is shown to any extent in one or more other new entries;

(b) "reorganisation" means a situation where, with effect from a day in the relevant year, lands and heritages shown immediately before that day in two or more old entries are shown in two or more new entries, each of which is a reorganised entry; and

(c) "the relevant old entries", in relation to a reorganised entry, means the old entries affected by the reorganisation which gave rise to that entry.

PART II

LANDS AND HERITAGES ON ROLL ON 1ST APRIL 2005

Application of Part II

6.—(1) Subject to paragraphs (2) and (3) below, this Part applies to lands and heritages–

(a) which are shown in the roll on 1st April 2005; and

(b) in respect of all or any part of which there is an entry, or are entries, in the roll on 31st March 2005.

(2) This Part shall not apply to lands and heritages shown in an entry in the roll on 1st April 2005 if–

(a) that entry shows a nil rateable value; or

(b) the only lands and heritages shown in that entry which are to any extent shown in the roll on 31st March 2005 then have a nil rateable value.

(3) This Part shall cease, as from the date of any merged, split or reorganised entry taking effect subsequent to 1st April 2005, to apply to the lands and heritages shown in that entry.

Amount payable as rates

7. Where the notional liability in respect of any lands and heritages to which this Part applies and any day in the relevant year is–

(a) more than the upper transitional limit in respect of these lands and heritages and that day (ascertained in accordance with regulation 9 below), the amount payable as rates in respect of those lands and heritages and that day shall, subject to Parts V and VI below, be that upper transitional limit;

(b) less than the lower transitional limit in respect of these lands and heritages and that day (ascertained in accordance with regulation 10 below), the amount so payable shall, subject to those Parts, be that lower transitional limit.

Notional liability

8. The notional liability in respect of any lands and heritages to which this Part applies and any day shall be calculated in accordance with the formula–

$$\frac{RV \times PF}{365}$$

where–

RV is the rateable value for those lands and heritages on that day; and

PF is the poundage figure of 0.461.

Upper transitional limit

9. The upper transitional limit in respect of any lands and heritages to which this Part applies and any day shall, subject to regulation 12 below, be calculated in accordance with the formula–

$$\frac{BL \times 1.160}{365}$$

where–

BL is the base liability of those lands and heritages, ascertained in accordance with regulation 11 below.

Lower transitional limit

10. The lower transitional limit in respect of any lands and heritages to which this Part applies and any day shall, subject to regulation 12 below, be calculated in accordance with the formula–

$$\frac{BL \times 0.928}{365}$$

where–

BL has the same meaning as in regulation 9 above.

Base liability

11.—(1) The base liability in respect of any lands and heritages shall–

(a) in the case of lands and heritages shown in a split or reorganised entry taking effect on 1st April 2005, be calculated in accordance with the formula–

$$\frac{NL \times 365}{1.2}$$

where–

NL is the notional liability of those lands and heritages on 1st April 2005 calculated in accordance with regulation 8;

(b) in any other case, be the deemed amount (or, in the case of a merged entry taking effect on 1st April 2005, the total deemed amount) in respect of those lands and heritages calculated in accordance with paragraph (2) below.

(2) In paragraph (1)(b) above, the "deemed amount" in respect of any lands and heritages is the amount which would have been payable as rates in respect of those lands and heritages for the year ending 31st March 2005, had that amount been calculated on the basis of the rateable value of those lands and heritages on that date, before applying any reliefs allowed in terms of these Regulations or the additional factor specified in regulation 18(2) below.

Changes in rateable value after 1st April 2005

12.—(1) Where, subsequent to 1st April 2005, the rateable value of lands and heritages to which this Part applies is increased with effect from a day in the relevant year (the "effective day"), the upper and lower transitional limits in respect of those lands and heritages shall, as regards days in that year on and after that effective day, be calculated in accordance with the formula–

$$TL + \frac{(IRV - RV) \times PF}{365}$$

where–

TL is the upper, or as the case may be lower, transitional limit in respect of those lands and heritages and the day immediately prior to the effective day;

IRV is the increased rateable value of those lands and heritages;

RV is their rateable value immediately prior to the effective day; and

PF is the poundage figure of 0.461.

(2) Where the rateable value of lands and heritages to which this Part applies is reduced with effect from a day in the relevant year subsequent to 1st April 2005, as a result of–

(a) a material change of circumstances (within the meaning of section 37(1) of the 1975 Act(**10**); or

(b) the assessor amending or adding an apportionment note under paragraph 2 of Schedule 5 to the 1992 Act,

the upper and lower transitional limits in respect of those lands and heritages shall, as regards days in that year on and after that effective day, be calculated in accordance with the formula–

$$\frac{TL \times RRV}{RV}$$

where–

TL and RV have the same meanings as in paragraph (1) above; and

RRV is the reduced rateable value of those lands and heritages.

PART III

MERGERS, SPLITS AND REORGANISATIONS AFTER 1ST APRIL 2005

Application of Part III

13.—(1) Where, subsequent to 1st April 2005, lands and heritages are shown in a merged, split or reorganised entry with effect from a day in the relevant year (the "effective day"), this Part shall, subject to paragraph (2) below, apply to those lands and heritages as from that effective day.

(2) This Part shall not apply to lands and heritages shown–

(a) in a merged or reorganised entry, if that entry does not show (in whole or in part) any lands and heritages in respect of which–

(**10**) The relevant definition in section 37(1) was amended by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31), section 20 and Schedule 2, paragraph 17, by the Abolition of Domestic Rates etc. (Scotland) 1987 Act (c.47), Schedule 6, and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 100(8).