SCOTTISH STATUTORY INSTRUMENTS

2000 No. 285

RATING AND VALUATION

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

Made - - - - 14th August 2000

Coming into force in accordance with article 1(1)

The Scottish Ministers, in exercise of the powers conferred upon them by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(**1**), and of all other powers enabling them in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to them to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to them to be desirable, all in accordance with section 6(4) of the said Act, hereby make the following Order, a draft of which has been laid before and has been approved by resolution of the Scottish Parliament:

Citation, commencement and date of effect

1.—(1) This Order may be cited as the Docks and Harbours (Rateable Values) (Scotland) Order 2000 and shall come into force on the day after the day on which it is made.

(2) This Order shall have effect as from 1st April 2000(**2**).

Interpretation

2.—(1) In this Order–

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

"accounting period", in relation to an undertaking, means the period by reference to which the accounts relating to the undertaking are compiled;

(**1**) 1975 c. 30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c. 4), section 1, and section 6(1) subsequently substituted by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 11 and amended by the Local Government Finance Act 1992 (c. 14), Schedule 13, paragraph 42; section 6(1A) was repealed by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 14; section 6(5A) and (8) was inserted by the Local Government etc. (Scotland) Act 1994, sections 160 and 157; section 37(1) contains a definition of "prescribed" which is relevant to the exercise of the powers under which this Order is made and which was amended by the Local Government Finance Act 1992, Schedule 13, paragraph 43(c). The functions of the Secretary of State under those sections of the Local Government (Scotland) Act 1975 were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) In terms of subsection (6) of section 6 of the 1975 Act, an Order under that section may provide that the Order shall have effect as from the beginning of the financial year in which it is made.

"adjusted balance", 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", in relation to an undertaking and a period, means the amount of relevant expenditure of the undertaking for the period multiplied by–

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

and

"adjusted income", in relation to an undertaking and a period, means the amount of relevant income of the undertaking for the period multiplied by–

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

where–

a P is the retail prices index for September 1997, and

b Y is the retail prices index for the September falling 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, for this purpose, the same as the figure calculated by the Secretary of State for the purposes of paragraph 5(5) of Schedule 7 to the Local Government Finance Act 1988((**3**)) 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;

"associated body" means an associated body of an authority and shall be construed in accordance with paragraph (3);

"an authority" means any person who carries on, under authority conferred by or under any enactment, a dock or harbour undertaking;

"financial year" means the period of twelve months beginning with 1st April;

"operational land", in relation to an authority, means land which is used for the purposes of carrying on the authority's undertaking, not being land which, in respect of its nature and situation, is comparable with land in general rather than with land which is used for the purposes of carrying on of statutory undertakings (within the meaning of section 214 of the Town and Country Planning (Scotland) Act 1997(**4**));

"prescribed class of lands and heritages" means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order;

"relevant balance", 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", in relation to an undertaking and a period, means all expenditure included or falling to be included in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on in respect of a prescribed class of lands and heritages or otherwise, other than–

(a) expenditure in respect of pilotage;

(b) expenditure–

(**3**) 1988 c. 41.
(**4**) 1997 c. 8.

(i) in relation to investments required to be shown in the accounts of the undertaking (other than expenditure in relation to investments in subsidiary companies);

(ii) consisting of or relating to interest payable in respect of borrowing;

(iii) consisting of payments for or in connection with the management of property which is let out and which is or forms part of lands and heritages shown on any valuation roll;

(c) expenditure incurred in respect of the disposal of land; and

(d) amounts written off in respect of depreciation;

"relevant income", in relation to an undertaking and a period, means all income by way of revenue included or falling to be included in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on in respect of a prescribed class of lands and heritages or otherwise, other than–

(a) income in respect of pilotage;

(b) income from–

(i) investments required to be shown in the accounts of the authority (other than investments in subsidiary companies);

(ii) loans or deposits;

(iii) rent or other payments receivable in consideration of the grant of permission for occupation or use of any property of the authority, or right over such property, which is or forms part of lands and heritages shown on any valuation roll; and

(c) any sum receivable in respect of the disposal of land;

"relevant preceding year" means the financial year ending immediately before the financial year in question;

"retail prices index" has the meaning given by paragraph 5(8) of Schedule 7 to the Local Government Finance Act 1988(**5**);

"undertaking" means a dock or harbour undertaking carried on, by or under, any enactment by an authority;

"subsidiary" has the meaning given by section 736 of the Companies Act 1985(**6**).

(2) For the purposes of this Order–

(a) lands and heritages occupied by an authority includes a reference to lands and heritages which, if unoccupied, are owned by that authority; and

(b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

(3) For the purposes of this Order, a body shall be treated as the associated body of an authority if–

(a) it is a body corporate in relation to which that authority 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 that authority and any other associated body or bodies of that authority directly or indirectly own or control not less than 51 per cent of its issued share capital.

(**5**) Paragraph 5(8) was amended by S.I.1989/992 and 1996/273.

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

(4) Any reference in this Order to a numbered article shall be construed as a reference to the article bearing that number in this Order and any reference in an article to a numbered paragraph shall be construed as a reference to the paragraph bearing that number in that article.

Prescribed class of lands and heritages

3.—(1) The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland (other than the lands and heritages mentioned in paragraph (2)) occupied by an authority and used for the purposes of the undertaking carried on by that authority.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising–

(a) a dock or harbour where the relevant income of the undertaking–

(i) in any accounting period of twelve months ending during the year ending with 31st March 1998, or if there is none,

(ii) if there is an accounting period of any other length which ends in that year, in the period of twelve months which ends with the last day of the last such accounting period, or, if there is none,

(iii) in the twelve months ending with 31st March 1998,

was not more than £1,000,000;

(b) a dock or harbour used by an authority exclusively or mainly for the purpose of bringing or receiving goods of any one or more of the following descriptions:–

(i) goods which have been manufactured or produced by that authority or an associated body;

(ii) goods which are to be used by that authority or an associated body for the manufacture or production of goods or electricity;

(iii) goods which are to be sold by that authority or an associated body; or

(c) premises occupied by an authority which do not consist exclusively of operational land.

Rateable values

4.—(1) For the purposes of section 6(1) of the 1975 Act, the rateable value of any lands and heritages occupied by an authority which fall within the prescribed class of lands and heritages shall be determined in accordance with this article.

(2) Subject to paragraphs (4) and (5), the rateable value of any such lands and heritages for the financial year 2000-01 shall be an amount equal to 25 per cent of the relevant balance of the undertaking for–

(a) an accounting period of twelve months ending during the financial year ending with 31st March 1998; or, if there is none,

(b) if there is an accounting period of any other length which ends in that year, the period of twelve months which ends with the last day of the last such accounting period, or, if there is none,

(c) the twelve months ending with 31st March 1998.

(3) Subject to paragraphs (4) to (6), the rateable value of any such lands and heritages for any subsequent financial year shall be an amount equal to 25 per cent of the adjusted balance of the undertaking for–