STATUTORY INSTRUMENTS

1989 No. 2473

RATING AND VALUATION

The Docks and Harbours (Rateable Values) Order 1989

Approved by both Houses of Parliament

Made - - - -	*22nd December 1989*
Coming into force	*23rd December 1989*

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 140(4), 143(1) and 146(6) of and paragraph 3(1), (3) and (4) of Schedule 6 to the Local Government Finance Act 1988(a) and of all other powers enabling them in that behalf, hereby make the following Order in the terms of a draft laid before, and approved by resolution of, each House of Parliament:—

Citation and commencement

1. This Order may be cited as the Docks and Harbours (Rateable Values) Order 1989 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

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

"adjusted income" in relation to any period ("the relevant period") means the amount of relevant income for that period multiplied by the product of $\frac{P}{Y}$,

where P is the retail prices index for September 1987 and Y is the retail prices index for the September falling during the relevant period, unless the base month for the index for that September differs from the base month for the index for September 1987, 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 relevant period if the base month for the index had been the same in both cases;

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

(a) income in respect of pilotage;

(b) income from—

(i) investments required to be shown in the accounts of the undertaking (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 undertaking, or right over such property, which is or forms part of a hereditament which is shown on a local rating list;

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

"subsidiary" has the meaning given by section 736 of the Companies Act 1985(b);

(a) 1988 c.41. Paragraph 3(1) of Schedule 6 is amended and paragraph 3(3) and (4) inserted by paragraph 38(12) and (14) of Schedule 5 to the Local Government and Housing Act 1989 (c.42).
(b) 1985 c.6.

" year ", unless the context otherwise requires, means a chargeable financial year; and in relation to any year " relevant preceding year " 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 any hereditament which consists of a dock or harbour undertaking carried on under authority conferred by or under any enactment.

(2) This Order does not apply—

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

(i) in any accounting period of twelve months ending during the period beginning on 31st December 1987 and ending with 31st March 1988; or

(ii) if there was no such accounting period, in the twelve months ending on 31st March 1988,

was not more than £50,000; 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—

(i) manufactured or produced by them; or

(ii) to be used by them for the manufacture or production of goods or electricity; or

(iii) to be sold by them, or

(iv) manufactured or produced by an associated body, and to be sold by that body.

(3) For the purposes of paragraph (2)(b), 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 51 per cent. of its issued share capital.

(4) Other than for the purposes of the calculation of relevant income, 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.

(5) In paragraph (4), " 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 of statutory undertakings (within the meaning of the Town and Country Planning Act 1971(**a**)).

Rateable values

4.—(1) Paragraphs 2 to 2B of Schedule 6 to the Local Government Finance Act 1988(**b**) shall not apply to any hereditament to which this Order applies; and the rateable value of any such hereditament shall be—

(a) for the year beginning on 1st April 1990, an amount equal to 9 per cent. of the relevant income of the undertaking for—

(i) any accounting period of twelve months ending during the period beginning on 31st December 1987 and ending with 31st March 1988; or

(ii) if there was no such accounting period, the twelve months ending on 31st March 1988,

(b) for any subsequent year, an amount equal to 9 per cent of the adjusted income of the undertaking for—

(i) any accounting period of twelve months ending during the period beginning on 31st December in the relevant preceding year and ending with 31st March in that year; or,

(ii) if there is no such accounting period, the twelve months ending with that year,

(**a**) 1971 c.78. (**b**) 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.

unless that amount differs from the rateable value for the relevant preceding year by less than 20 per cent of that rateable value, in which case the rateable value for that subsequent year shall be the same as the rateable value for the relevant preceding year.

(2) Where (apart from this paragraph) any rateable value determined under paragraph (1) would include a fraction of a pound—

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

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

Chris Patten
21st December 1989 Secretary of State for the Environment

Peter Walker
22nd December 1989 Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

Where the Secretary of State so provides by order under paragraph 3(1) of Schedule 6 to the Local Government Finance Act 1988, hereditaments of any class are not to be valued for non-domestic rating on and after 1st April 1990 on the basis set out in paragraphs 2 to 2B of that Schedule (that is to say, 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 the Order, except in the case of certain small undertakings, essentially those with a relevant income of less than £50,000 in 1988, 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 is to be calculated by reference to 9 per cent of certain categories of the income of the undertaking for the accounting period ending in the previous such year, or if there is no such period, its income in that previous year.