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*

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The Scottish Ministers, in exercise of the powers conferred upon them by section 153 of the Local Government etc. (Scotland) Act 1994(**a**) 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(**b**);

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

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

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

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

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

"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;

(**a**) 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).
(**b**) 1962 c. 9.
(**c**) 1966 c.51.
(**d**) 1975 c.30.
(**e**) 1978 c. 40.
(**f**) 1992 c.14.
(**g**) 1997 c.29.

"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(**a**);

"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(**b**).

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.

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

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(**a**) 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).

(**b**) Section 1 was repealed in part by the Local Government and Rating Act 1997 (c. 29), Schedule 4.

(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–

$$\frac{BL \; x \; 1.160}{365}$$

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–

$$\frac{BL \; x \; 0.928}{365}$$

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–

$$\frac{NL \; x \; 365}{1.2}$$

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–

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

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(**a**); 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–

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

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.

(**a**) 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).

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–

(i) paragraph (a) or (b) of regulation 7 above; or

(ii) this Part,

applied as regards the day immediately prior to the effective date of that entry;

(b) in a split entry, if neither of those paragraphs nor this Part applied in respect of the lands and heritages shown in the relevant old entry and the day immediately prior to the effective date of the split entry.

Mergers and reorganisations – amount payable as rates

14.—(1) Where lands and heritages to which this Part applies are shown in a merged or reorganised entry, the amount payable as rates in respect of those lands and heritages and a day in the relevant year shall, subject to regulation 16 and Parts IV to VI below, be calculated in accordance with the formula–

$$\text{TAL} \times \frac{RV}{TORV}$$

where–

TAL is the total of the applicable liabilities in respect of each relevant old entry, ascertained in accordance with paragraph (2) below;

RV is the rateable value shown in the merged or reorganised entry; and

TORV is the total old rateable value, being the total of the rateable values shown in the relevant old entries.

(2) For the purpose of paragraph (1) above, the applicable liability in respect of an old entry is–

(a) where paragraph (a) or (b) of regulation 7 above applies in respect of the lands and heritages shown in that entry and the day immediately prior to the effective date of the merged or reorganised entry, the amount determined under the applicable paragraph (before application of Parts IV to VI below);

(b) where this Part applies in respect of those lands and heritages and that day, the amount determined under this Part (before application of Parts IV to VI below); and

(c) in any other case, the amount calculated in accordance with the formula–

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

where–

RV is the rateable value shown in the old entry; and

PF has the same meaning as in regulation 12(1) above.

Splits – amount payable as rates

15. Where lands and heritages to which this Part applies are shown in a split entry, the amount payable as rates in respect of those lands and heritages and a day in the relevant year shall, subject to regulation 16 and Parts IV to VI below, be calculated in accordance with the formula–

$$\text{AD x } \frac{RV}{ORV}$$

where–

AD is the amount determined under paragraph (a) or (b) of regulation 7 above, or as the case may be this Part, (before application of Parts IV to VI below) in respect of the lands and heritages shown in the relevant old entry and the day immediately prior to the effective date of the split entry;

RV is the rateable value shown in the split entry; and

ORV is the old rateable value, being the rateable value shown in the relevant old entry.

Changes in rateable value

16.—(1) Where the rateable value of lands and heritages to which this Part applies is increased with effect from a day in the relevant year subsequent to 1st April 2005, the amount payable as rates in respect of those lands and heritages and any day in the relevant year ("the effective day") on or after that effective day shall, subject to Parts IV to VI below, be calculated in accordance with the formula–

$$\text{AD} + \frac{(IRV - RV) \ x \ PF}{365}$$

where–

AD is the amount determined under regulation 14(1) or 15 above (before application of Parts IV to VI below) 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 has the same meaning as in regulation 12(1) above.

(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, the amount payable as rates in respect of those lands and heritages and any day in the relevant year on or after that effective day shall, subject to Parts IV to VI below, be calculated in accordance with the formula–

$$\text{AD x } \frac{RRV}{RV}$$

where–

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

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

(3) Where the rateable value of lands and heritages is changed for a second or subsequent time whilst this Part applies to them, paragraphs (1) and (2) above shall have effect with the substitution, in the definition of "AD" in paragraph (1), for the words "regulation 14(1) or 15 above" of the words "this paragraph or paragraph (2) below".

PART IV

LANDS AND HERITAGES WITH RATEABLE VALUE OF £11,500 OR LESS

Amount payable as rates

17.—(1) This regulation applies to lands and heritages on a day in the relevant year where they have a rateable value of £11,500 or less.

(2) Subject to paragraphs (3) and (4) below, where the cumulative rateable value of lands and heritages to which this Part applies falls within one of the ranges specified in column 1 (cumulative rateable value range) of the table below, the amount of rates payable shall be reduced by the percentage of rate relief specified in the corresponding entry in column 2 (percentage of rate relief).

Cumulative rateable value range	*Percentage of rate relief*
Less than £3,500	50%
£3,500 or above but under £4,500	40%
£4,500 or above but under £5,750	30%
£5,750 or above but under £7,000	20%
£7,000 or above but under £8,000	10%

(3) Where the amount of rates payable in respect of any lands and heritages to which this regulation applies falls to be–

(a) reduced by virtue of one or more of the following enactments:–

(i) section 4(2) of the 1962 Act(**a**);

(ii) section 24(3) of the 1966 Act(**b**);

(iii) section 24A of the 1966 Act(**c**);

(iv) the 1978 Act;

(v) paragraphs 3 and 3A(**d**) of Schedule 2 to the 1997 Act; or

(b) determined in accordance with sections 6(1) and 7B(2) of the Valuation and Rating (Scotland) Act 1956(**e**),

then the amount of rate relief shall be restricted to 5% in respect of the rates payable as so reduced or, as the case may be, determined.

(4) Where the amount of rates payable in respect of any lands and heritages to which this regulation applies falls to be reduced or remitted by virtue of a rating authority exercising any of the powers listed at regulation 21(b) below, and paragraph (3) above does not apply, then the percentage of rate relief as calculated under paragraph (2) above shall be applied to the rates payable as so reduced or, as the case may be, remitted.

(5) Where the cumulative rateable value is £8,000 or above but includes lands and heritages which are valued at £11,500 or under then the amount of rate relief for any such lands and heritages that are valued at £11,500 or under shall be 5%.

(6) For the purposes of this regulation the "cumulative rateable value" is the total rateable value of all lands and heritages occupied by an individual ratepayer in Scotland.

PART V

LANDS AND HERITAGES WITH RATEABLE VALUE OF MORE THAN £29,000

Amount payable as rates

18.—(1) This regulation applies to lands and heritages on any day in the relevant year when they have a rateable value exceeding £29,000.

(2) The additional amount payable as rates in respect of lands and heritages and a day on which this regulation applies to them shall be calculated in accordance with the formula–

$$\text{AARP} = \frac{(RV \ x \ S)}{365}$$

where–

AARP is the additional amount of rates payable;

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

(**a**) Section 4(2) was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23), section 5(a) and Schedule 4, the Local Government and Planning (Scotland) Act 1982 (c.43), section 5(1)(a) and the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 7.

(**b**) Section 24 was substituted by the Local Government etc. (Scotland) Act 1994 (c.39), section 154.

(**c**) Section 24A was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 155.

(**d**) Paragraph 3 was amended and paragraph 3A was inserted by sections 28 and 29 respectively of the Local Government in Scotland Act 2003, asp 1.

(**e**) 1956 c.50; section 7B was inserted by the Local Government and Housing Act 1989 (c.42), section 145 and Schedule 6, paragraph 4.

S is the additional factor of 0.0045.

PART VI

REDUCTIONS, REMISSIONS AND EXEMPTIONS

Charitable and other reductions

19.—(1) This regulation has effect for determining the amount payable as rates in respect of lands and heritages and a day in the relevant year where–

(a) that amount falls to be reduced by virtue of one or more of the following enactments:–

(i) section 4(2) of the 1962 Act;

(ii) section 24(3) of the 1966 Act;

(iii) the 1978 Act;

(iv) paragraphs 3 and 3A of Schedule 2 to the 1997 Act;

(b) regulation 7 or Part III or, as the case may be, Part V above has effect as regards those lands and heritages and that day; and

(c) regulation 20 below does not have effect.

(2) Where this regulation has effect, the amount payable shall be determined by applying the enactments referred to in paragraph (1)(a) above to the amount determined under regulation 7 or Part III above, as the case may be, in the same manner as those enactments are applied to the full amount payable as rates in respect of lands and heritages and a day in the case where neither regulation 7 nor Part III above has effect.

(3) For the purposes of paragraph (2) above the amount determined under regulation 7 shall include any such additional amounts payable as rates under Part V.

Partially unoccupied lands and heritages

20.—(1) This regulation has effect for determining the amount payable as rates in respect of lands and heritages and a day in the relevant year where–

(a) on that day those lands and heritages are subject to an apportionment under section 24A of the 1966 Act (**a**); and

(b) regulation 7 or Part III or, as the case may be, Part V above has effect as regards those lands and heritages and that day.

(2) Where this regulation has effect, the amount payable shall, subject to paragraph (3) below, be calculated in accordance with the formula–

$$A \times \frac{ARV}{RV}$$

where–

A is the amount for the day determined under regulation 7, Part III or Part V above, as the case may be;

ARV is the applicable rateable value, being the rateable value treated for rating purposes as the rateable value of the lands and heritages in terms of subsection (2), or as the case may be subsection (4), of section 24A of the 1966 Act; and

---

(**a**) Section 24A was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 156.

RV is the rateable value shown in the roll for those lands and heritages.

(3) Where–

(a) this regulation has effect as regards lands and heritages and a day; and

(b) the amount payable as rates in respect of those lands and heritages and that day falls to be reduced by virtue of an enactment referred to in paragraph (1)(a)(i), (iii) or (iv) of regulation 19 above,

the amount payable shall be determined in accordance with paragraph (2) of that regulation, but as if for the words "regulation 7 or Part III above, as the case may be," in that paragraph there were substituted the words "regulation 20(2) below".

Exemptions and discretionary reductions and remissions

21. Nothing in these Regulations–

(a) shall require rates to be paid in respect of lands and heritages and a day where those lands and heritages are under any enactment entirely exempt from rates for that day; or

(b) shall prejudice the power of a rating authority to grant a reduction or remission of rates under section 4(5) of the 1962 Act(**a**), section 25A of the 1966 Act(**b**) or paragraph 4 of Schedule 2 to the 1997 Act(**c**).

PART VII

REVOCATION

Revocation

22.—(1) Subject to paragraph (2) below, the Non-Domestic Rates (Levying) (Scotland) Regulations 2004(**d**) are hereby revoked.

(2) Nothing in paragraph (1) above shall affect the continuing operation of those Regulations as regards any day prior to 1st April 2005.

TOM McCABE
A member of the Scottish Executive

St Andrew's House,
Edinburgh
2nd March 2005

(**a**) Section 4(5) was amended by the Local Government and Planning (Scotland) Act 1982, section 5(1)(b), the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 57 and the Local Government and rating Act 1997, Schedule 3, paragraph 2(a).
(**b**) Section 25A was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 156.
(**c**) Paragraph 4 was amended by section 28 of the Local Government in Scotland Act 2003 asp 1.
(**d**) S.S.I. 2004/92.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the amount payable in certain circumstances as non-domestic rates in respect of non-domestic subjects in Scotland. They apply only to the financial year 2005-06 ("the relevant year").

Part I makes provision as to citation, commencement and interpretation.

Part II deals with amounts payable in respect of non-domestic subjects which are shown in the valuation roll as at 1st April 2005 and 31st March 2005. The Part ceases to apply to a non-domestic subject if and when it becomes the subject of a merged, split or reorganised entry in the valuation roll taking effect during the relevant year. For every day of the relevant year, the notional rates liability for a non-domestic subject (that is, the full amount ordinarily payable as rates) must be compared against that subject's upper and lower transitional limits. If the notional liability is more than the upper limit or less than the lower limit, the amount payable will be equal to the upper or lower limit, as the case may be (regulation 7). Upper and lower transitional limits are calculated by multiplying a non-domestic subject's notional rates liability for 2004/2005 (its "base liability") by set figures (regulations 9 and 10). Regulation 11 makes provision for the calculation of base liability. Regulation 12 specifies how transitional limits are to be recalculated in cases where the rateable value of the non-domestic subject changes during the relevant year.

Part III makes provision for the situation where a non-domestic subject is shown in a merged, split or reorganised entry in the valuation roll which takes effect during the relevant year. If the amount of rates payable in respect of any component of the property shown in the new entry was being determined under Regulations immediately prior to that entry taking effect, then Part III applies to determine the amount payable in respect of that property for the rest of the year (regulation 13). That amount is calculated by apportioning or aggregating, as the case may be, the amount or amounts payable immediately prior to the effective date of the new entry in respect of the non-domestic subject affected by the new entry (regulations 14 and 15). Regulation 16 provides for amounts payable to be recalculated if there is a change in the rateable value of property whilst Part III applies to it.

Part IV provides for a general reduction in rates for non-domestic subjects with a rateable value of £11,500 or less. Regulation 17 provides for a reduction on a sliding scale of between 10 per cent and 50 per cent on the rates payable where the cumulative rateable value of the non-domestic subject occupied by the ratepayer is less than £8,000. Where the amount of rates payable in respect of which the non-domestic subject to which this part applies falls to be reduced by virtue of any of the enactments listed at regulation 17(3)(a), or is determined in accordance with regulation 17(3)(b) then the reduction in rates is limited to 5 per cent. Where the amounts of rates payable is reduced or remitted by virtue of the enactments listed at regulation 21(b) and regulation 17(3) does not apply then the percentage of rate relief given on the sliding scale shall be applied to the rates reduced or remitted. Where the cumulative value of the non-domestic subjects occupied by the ratepayer is £8,000 or above, but includes subjects which are valued at £11,500 or under, the reduction on the rates payable on the said subjects is restricted to 5 per cent.

Part V provides for a general increase in rates for non-domestic subjects with a rateable value of more than £29,000.

Part VI deals with reductions, remissions and exemptions. Regulations 19 and 20 provide for reductions under other enactments to apply in cases where the amount payable is determined under Part II, III, IV or V in the same way as they apply in cases where these Regulations do not have effect. Nothing in the Regulations requires the payment of rates on property which is entirely exempt from rates under any other enactment, or prejudices the power of a rating authority to grant discretionary reductions or remissions (regulation 21).

Part VII revokes the Non-Domestic Rates (Levying) (Scotland) Regulations 2004.

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2005 No.126

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