STATUTORY INSTRUMENTS

1990 No. 162

COMMUNITY CHARGES, ENGLAND AND WALES RATING AND VALUATION

The Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990

Made - - - -	*2nd February 1990*
Laid before Parliament	*9th February 1990*
Coming into force -	*2nd March 1990*

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 4(7) and 66(9) of the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Order:–

1.—(1) This Order may be cited as the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990 and shall come into force on 2nd March 1990.

(2) In this Order "the Act" means the Local Government Finance Act 1988.

2.—(1) Section 4 of the Act shall be amended as follows.

(2) In subsection (4) there shall be inserted at the beginning–
"Subject to subsections (5) and (5B) below,".

(3) For subsection (5) there shall be substituted–
"(5) A building or self-contained part of a building is not domestic property if it is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation–

(a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and

(b) which is not self-contained self-catering accommodation provided commercially.

(5A) Subsection (5) above does not apply if–

(a) it is intended that, in the year beginning with the end of the day in relation to which the question is being considered, the property will be available for the provision of short-stay accommodation for short periods totalling less than 100 days, and

(b) the person intending to provide such accommodation also intends to reside in the building throughout any period during which accommodation is intended to be provided.

(5B) A building or self-contained part of a building is not domestic property if–

(a) 1988 c.41.

(a) the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for periods totalling 140 days or more; and

(b) on that day his interest in the building or part is such as to enable him so to let it for such periods.

(5C) For the purposes of subsection (5B) above the relevant person is–

(a) where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and

(b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.".

(4) The following subsection shall be inserted after subsection (6)–

"(6A) In this section–

"business" includes–

(a) any activity carried on by a body of persons, whether corporate or unincorporate, and

(b) any activity carried on by an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only; and

"commercially" means on a commercial basis, and with a view to the realisation of profits.".

3.—(1) Section 66 of the Act shall be amended as follows.

(2) In subsection (1)–

(a) at the beginning there shall be inserted "Subject to subsections (2) and (2B) below,";

(b) in paragraph (c), after "garage", there shall be inserted "which either has a floor area of 25 square metres or less or is".

(3) For subsection (2) there shall be substituted–

"(2) Property is not domestic property if it is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation–

(a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and

(b) which is not self-contained self-catering accommodation provided commercially.

(2A) Subsection (2) above does not apply if–

(a) it is intended that, in the year beginning with the end of the day in relation to which the question is being considered, the property will be available for the provision of short-stay accommodation for periods totalling less than 100 days, and

(b) the person intending to provide such accommodation also intends to reside in the hereditament within which the accommodation is contained throughout any period during which accommodation is intended to be provided.

(2B) A building or self-contained part of a building is not domestic property if–

(a) the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for short periods totalling 140 days or more, and

(b) on that day his interest in the building or part is such as to enable him to let it for such periods.

(2C) For the purposes of subsection (2B) the relevant person is–

(a) where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and

(b) in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.

(2D) Subsection (2B) above does not apply where the building or self-contained part is used as the sole or main residence of any person other than a person who is treated as having such a residence there only by virtue of section 2(5A) above(a).".

(4) The following subsection shall be inserted after subsection (8)–

"(8A) In this section–

"business" includes–

(a) any activity carried on by a body of persons, whether corporate or unincorporate, and

(b) any activity carried on by a charity;

"commercially" means on a commercial basis, and with a view to the realisation of profits; and

"relevant leasehold interest" means an interest under a lease or underlease which was granted for a term of 6 months or more and conferred the right to exclusive possession throughout the term.".

Chris Patten
Secretary of State for the Environment

2nd February 1990

Peter Walker
Secretary of State for Wales

2nd February 1990

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the definition of domestic property applicable for the purposes of section 3 (standard community charge) and Part III (non-domestic rating) of the Local Government Finance Act 1988.

Article 2 amends section 4 (interpretation) of the Act, so that for the purposes of the standard community charge, short-stay accommodation (other than self-catering accommodation) intended to be made available for less than 100 days in a year by a person resident on the premises is to be treated as domestic, and self-catering accommodation intended to be made available for letting commercially for 140 or more days in a year is not to be so treated.

Article 3 makes equivalent provision in relation to the definition of domestic property in section 66 of the Act, which has effect for the purposes of non-domestic rating. However, it also–

(a) provides that commercial self-catering accommodation to be made available for

---

(a) Section 2(5) of the Local Government Finance Act 1988 is amended and subsection (5A) inserted by paragraph 2(3) of Schedule 5 to the Local Government and Housing Act 1989 (c.42).

140 or more days in a year is to be treated as domestic on any day on which it is any person's sole or main residence, unless that person is treated as having such a residence there only by virtue of section 2(5A) (students), and

(b) extends the category of private garages which are to be treated as domestic, to include all garages having a floor area of 25 square metres or less.

90p net

ISBN 0 11 003162 8

Printed in the United Kingdom for HMSO
850 WO 350 C5 3/90 51.0.0 56219 ON 97463