

## SCHEDULES

### SCHEDULE 5

Section 51.

#### NON-DOMESTIC RATING: EXEMPTION

##### *Agricultural premises*

- 1 A hereditament is exempt to the extent that it consists of any of the following—
  - (a) agricultural land;
  - (b) agricultural buildings.
- 2 (1) Agricultural land is—
  - (a) land used as arable, meadow or pasture ground only,
  - (b) land used for a plantation or a wood or for the growth of saleable underwood,
  - (c) land exceeding 0.10 hectare and used for the purposes of poultry farming,
  - (d) anything which consists of a market garden, nursery ground, orchard or allotment (which here includes an allotment garden within the meaning of the Allotments Act 1922), or
  - (e) land occupied with, and used solely in connection with the use of, a building which (or buildings each of which) is an agricultural building by virtue of paragraph 4, 5, 6 or 7 below.
  - (2) But agricultural land does not include—
    - (a) land occupied together with a house as a park,
    - (b) gardens (other than market gardens),
    - (c) pleasure grounds,
    - (d) land used mainly or exclusively for purposes of sport or recreation, or
    - (e) land used as a racecourse.
- 3 A building is an agricultural building if it is not a dwelling and—
  - (a) it is occupied together with agricultural land and is used solely in connection with agricultural operations on the land, or
  - (b) it is or forms part of a market garden and is used solely in connection with agricultural operations at the market garden.
- 4 (1) A building is an agricultural building if it is used solely in connection with agricultural operations carried on on agricultural land and sub-paragraph (2) or (3) below applies.
  - (2) This sub-paragraph applies if the building is occupied by the occupiers of all the land concerned.
  - (3) This sub-paragraph applies if the building is occupied by individuals each of whom is appointed by the occupiers of the land concerned to manage the use of the building and is—
    - (a) an occupier of some of the land concerned, or

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- (b) a member of the board of directors or other governing body of a person who is both a body corporate and an occupier of the land concerned.
- (4) This paragraph does not apply unless the number of occupiers of the land concerned is less than 25.
- 5 (1) A building is an agricultural building if—
  - (a) it is used for the keeping or breeding of livestock, or
  - (b) it is not a dwelling, it is occupied together with a building or buildings falling within paragraph (a) above, and it is used in connection with the operations carried on in that building or those buildings.
- (2) Sub-paragraph (1)(a) above does not apply unless—
  - (a) the building is solely used as there mentioned, or
  - (b) the building is occupied together with agricultural land and used also in connection with agricultural operations on that land, and that other use together with the use mentioned in sub-paragraph (1)(a) is its sole use.
- (3) Sub-paragraph (1)(b) above does not apply unless—
  - (a) the building is solely used as there mentioned, or
  - (b) the building is occupied also together with agricultural land and used also in connection with agricultural operations on that land, and that other use together with the use mentioned in sub-paragraph (1)(b) is its sole use.
- (4) A building (the building in question) is not an agricultural building by virtue of this paragraph unless it is surrounded by or contiguous to an area of agricultural land which amounts to not less than 2 hectares.
- (5) In deciding for the purposes of sub-paragraph (4) above whether an area is agricultural land and what is its size, the following shall be disregarded—
  - (a) any road, watercourse or railway (which here includes the former site of a railway from which railway lines have been removed);
  - (b) any agricultural building other than the building in question;
  - (c) any building occupied together with the building in question.
- 6 (1) A building is an agricultural building if it is not a dwelling, is occupied by a person keeping bees, and is used solely in connection with the keeping of those bees.
- (2) Sub-paragraphs (4) and (5) of paragraph 5 above apply for the purposes of this paragraph as for those of that.
- 7 (1) A building is an agricultural building if it is not a dwelling and—
  - (a) it is used in connection with agricultural operations carried on on agricultural land, and
  - (b) it is occupied by a body corporate any of whose members are (together with the body) the occupiers of the land.
- (2) A building is also an agricultural building if it is not a dwelling and—
  - (a) it is used in connection with the operations carried on in a building which, or buildings each of which, is used for the keeping or breeding of livestock and is an agricultural building by virtue of paragraph 5 above, and
  - (b) sub-paragraph (3), (4) or (5) below applies as regards the building first mentioned in this sub-paragraph (the building in question).

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- (3) This sub-paragraph applies if the building in question is occupied by a body corporate any of whose members are (together with the body) the occupiers of the building or buildings mentioned in sub-paragraph (2)(a) above.
- (4) This sub-paragraph applies if the building in question, and the building or buildings mentioned in sub-paragraph (2)(a) above, are occupied by the same persons.
- (5) This sub-paragraph applies if the building in question is occupied by individuals each of whom is appointed by the occupiers of the building or buildings mentioned in sub-paragraph (2)(a) above to manage the use of the building in question and is—
  - (a) an occupier of part of the building, or of part of one of the buildings, mentioned in sub-paragraph (2)(a) above, or
  - (b) a member of the board of directors or other governing body of a person who is both a body corporate and an occupier of the building or buildings mentioned in sub-paragraph (2)(a) above.
- (6) Sub-paragraph (1) above does not apply unless the use there mentioned, or that use together with the use mentioned in sub-paragraph (2) above, is its sole use.
- (7) Sub-paragraph (2) above does not apply unless the use there mentioned, or that use together with the use mentioned in sub-paragraph (1) above, is its sole use.
- (8) Sub-paragraph (4) or (5) above does not apply unless the number of occupiers of the building or buildings mentioned in sub-paragraph (2)(a) above is less than 25.
- 8 (1) In paragraphs 1 and 3 to 7 above “agricultural land” shall be construed in accordance with paragraph 2 above.
- (2) In paragraphs 1 and 5(5)(b) above “agricultural building” shall be construed in accordance with paragraphs 3 to 7 above.
- (3) In determining for the purposes of paragraphs 3 to 7 above whether a building used in any way is solely so used, no account shall be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the building is used.
- (4) In paragraphs 2 to 7 above and sub-paragraph (2) above “building” includes a separate part of a building.
- (5) In paragraphs 5 and 7 above “livestock” includes any mammal or bird kept for the production of food or wool or for the purpose of its use in the farming of land.

#### *Fish farms*

- 9 (1) A hereditament is exempt to the extent that it consists of any of the following—
  - (a) land used solely for or in connection with fish farming;
  - (b) buildings (other than dwellings) so used.
- (2) In determining whether land or a building used for or in connection with fish farming is solely so used, no account shall be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the land or building is used.
- (3) “Building” includes a separate part of a building.

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- (4) “Fish farming” means the breeding or rearing of fish, or the cultivation of shellfish, for the purpose of (or for purposes which include) transferring them to other waters or producing food for human consumption.
- (5) “Shellfish” includes crustaceans and molluscs of any description.

*Fishing*

- 10 (1) A hereditament is exempt to the extent that it consists of a right of fishing exercisable in a fishery regulated by an order which—
  - (a) is made under section 28(3) of the Salmon and Freshwater Fisheries Act 1975, and
  - (b) contains such provision as is mentioned in paragraph 1(a) of Schedule 3 to that Act (contributions imposed by water authorities).
- (2) A hereditament is exempt to the extent that it consists of a right of fishing exercisable in a fishery—
  - (a) which is regulated by the council constituted under section 6 of the Tweed Fisheries Act 1969, and
  - (b) as regards which a rate or assessment is levied under section 79 of the Tweed Fisheries Act 1857 or section 5 of the Tweed Fisheries Amendment Act 1859.

*Places of religious worship etc.*

- 11 (1) A hereditament is exempt to the extent that it consists of any of the following—
  - (a) a place of public religious worship which belongs to the Church of England or the Church in Wales (within the meaning of the Welsh Church Act 1914) or is for the time being certified as required by law as a place of religious worship;
  - (b) a church hall, chapel hall or similar building used in connection with a place falling within paragraph (a) above for the purposes of the organisation responsible for the conduct of public religious worship in that place.
- (2) A hereditament is exempt to the extent that it—
  - (a) is occupied by an organisation responsible for the conduct of public religious worship in a place falling within sub-paragraph (1)(a) above, and
  - (b) is used for carrying out administrative or other activities relating to the organisation of the conduct of public religious worship in such a place.

*Certain property of Trinity House*

- 12 (1) A hereditament is exempt to the extent that it belongs to or is occupied by the Trinity House and consists of any of the following—
  - (a) a lighthouse;
  - (b) a buoy;
  - (c) a beacon;
  - (d) property within the same curtilage as, and occupied for the purposes of, a lighthouse.

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- (2) No other hereditament (or part of a hereditament) belonging to or occupied by the Trinity House is exempt, notwithstanding anything in section 731 of the Merchant Shipping Act 1894.

#### *Sewers*

- 13 (1) A hereditament is exempt to the extent that it consists of any of the following—
- (a) a sewer;
  - (b) an accessory belonging to a sewer.
- (2) “Sewer” has the meaning given by section 343 of the Public Health Act 1936.
- (3) “Accessory” means a manhole, ventilating shaft, pumping station, pump or other accessory.
- (4) The Secretary of State may by order repeal sub-paragraphs (1) to (3) above.

#### *Property of drainage authorities*

- 14 (1) A hereditament is exempt to the extent that it consists of any of the following—
- (a) land which is occupied by a drainage authority and which forms part of a main river or of a watercourse maintained by the authority;
  - (b) a structure maintained by a drainage authority for the purpose of controlling or regulating the flow of water in, into or out of a watercourse which forms part of a main river or is maintained by the authority;
  - (c) an appliance so maintained for that purpose.
- (2) “Drainage authority”, “main river” and “watercourse” have the same meanings as in the Land Drainage Act 1976.
- (3) Nothing in this paragraph renders exempt a hereditament (or part of a hereditament) which consists of a right of fishing or shooting.

#### *Parks*

- 15 (1) A hereditament is exempt to the extent that it consists of a park which—
- (a) has been provided by, or is under the management of, a relevant authority or two or more relevant authorities acting in combination, and
  - (b) is available for free and unrestricted use by members of the public.
- (2) The reference to a park includes a reference to a recreation or pleasure ground, a public walk, an open space within the meaning of the Open Spaces Act 1906, and a playing field provided under the Physical Training and Recreation Act 1937.
- (3) Each of the following is a relevant authority—
- (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council,
  - (e) the Council of the Isles of Scilly,
  - (f) a parish or community council, and
  - (g) the chairman of a parish meeting.

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- (4) In construing sub-paragraph (1)(b) above any temporary closure (at night or otherwise) shall be ignored.

*Property used for the disabled*

- 16 (1) A hereditament is exempt to the extent that it consists of property used wholly for any of the following purposes—
- (a) the provision of facilities for training, or keeping suitably occupied, persons who are disabled or who are or have been suffering from illness;
  - (b) the provision of welfare services for disabled persons;
  - (c) the provision of facilities under section 15 of the Disabled Persons (Employment) Act 1944;
  - (d) the provision of a workshop or of other facilities under section 3(1) of the Disabled Persons (Employment) Act 1958.
- (2) A person is disabled if he is blind, deaf or dumb or suffers from mental disorder of any description or is substantially and permanently handicapped by illness, injury, congenital deformity or any other disability for the time being prescribed for the purposes of section 29(1) of the National Assistance Act 1948.
- (3) “Illness” has the meaning given by section 128(1) of the National Health Service Act 1977.
- (4) “Welfare services for disabled persons” means services or facilities (by whomsoever provided) of a kind which a local authority has power to provide under section 29 of the National Assistance Act 1948.

*Air-raid protection works*

- 17 A hereditament is exempt to the extent that it consists of property which—
- (a) is intended to be occupied or used solely for the purpose of affording protection in the event of hostile attack from the air, and
  - (b) is not occupied or used for any other purpose.

*Swinging moorings*

- 18 A hereditament is exempt to the extent that it consists of a mooring which is used or intended to be used by a boat or ship and which is equipped only with a buoy attached to an anchor, weight or other device—
- (a) which rests on or in the bed of the sea or any river or other waters when in use, and
  - (b) which is designed to be raised from that bed from time to time.

*Property in enterprise zones*

- 19 (1) A hereditament is exempt to the extent that it is situated in an enterprise zone.
- (2) An enterprise zone is an area for the time being designated as an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980.

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*Power to confer exemption*

- 20 (1) The Secretary of State may make regulations providing that prescribed hereditaments or hereditaments falling within any prescribed description are exempt to such extent (whether as to the whole or some lesser extent) as may be prescribed.
- (2) But the power under sub-paragraph (1) above may not be exercised so as to confer exemption which in his opinion goes beyond such exemption or privilege (if any) as fulfils the first and second conditions.
- (3) The first condition is that the exemption or privilege operated or was enjoyed in practice, immediately before the passing of this Act, in respect of a general rate in its application to the hereditaments prescribed or falling within the prescribed description.
- (4) The second condition is that the exemption or privilege—
- (a) was conferred by a local Act or order passed or made on or after 22 December 1925, or
  - (b) was conferred by a local Act or order passed or made before 22 December 1925 and was saved by section 117(5)(b) of the 1967 Act.
- (5) Regulations under sub-paragraph (1) above in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1 January in the preceding financial year.

*Interpretation*

- 21 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Exempt” means exempt from local non-domestic rating.
- (3) Any land, building or property not in use shall be treated as used in a particular way if it appears that when next in use it will be used in that way.
- (4) Any land or building which is not occupied shall be treated as occupied in a particular way if it appears that when next occupied it will be occupied in that way.
- (5) A person shall be treated as an occupier of any land or building which is not occupied if it appears that when it is next occupied he will be an occupier of it.