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STATUTORY INSTRUMENTS

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**1992 No. 3061 (S.252)**

**RATING AND VALUATION**

**The Non-Domestic Rating Contributions  
(Scotland) Regulations 1992**

<i>Made</i>	- - - -	<i>7th December 1992</i>
<i>Laid before Parliament</i>		<i>10th December 1992</i>
<i>Coming into force</i>	- -	<i>31st December 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 116(1) of, and paragraphs 10, 11(5)(a) and 12 of Schedule 12 to, the Local Government Finance Act 1992<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Non-Domestic Rating Contributions (Scotland) Regulations 1992 and shall come into force on 31st December 1992.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government Finance Act 1992;

“the 1947 Act” means the Local Government (Scotland) Act 1947<sup>(2)</sup>;

“the 1956 Act” means the Valuation and Rating (Scotland) Act 1956<sup>(3)</sup>;

“the 1962 Act” means the Local Government (Financial Provisions etc.) (Scotland) Act 1962<sup>(4)</sup>;

“the 1966 Act” means the Local Government (Scotland) Act 1966<sup>(5)</sup>;

“the 1975 Act” means the Local Government (Scotland) Act 1975<sup>(6)</sup>;

“authority” means a levying authority;

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(1) 1992 c. 14; section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) 1947 c. 43.

(3) 1956 c. 60.

(4) 1962 c. 9.

(5) 1966 c. 51.

(6) 1975 c. 30.

“provisional amount” means the provisional amount arrived at under paragraph 11(2) of Schedule 12 to the Act as regards an authority for a year, or the amount for the time being treated as that amount in accordance with regulation 6 of these Regulations;

“relevant day” means a day in a relevant year;

“relevant year” means a year for which a calculation of a non-domestic rating contribution or a calculation or recalculation of a provisional amount is being made;

“year” means a financial year.

### **Calculation of non-domestic rating contributions**

3. The rules for the calculation under paragraph 11 of Schedule 12 to the Act of an authority’s non-domestic rating contribution for a year are the rules contained in Schedule 1 to these Regulations.

### **Assumptions relating to provisional amounts**

4. A calculation under paragraph 11(2) of Schedule 12 to the Act shall be made on the basis of the information before the Secretary of State at the time he makes the calculation and subject to the assumptions prescribed in Schedule 2 to these Regulations.

### **Recalculation of provisional amounts**

5.—(1) Regulation 6 below applies as regards an authority for a year if—

- (a) a provisional amount has been arrived at as regards the authority for the year; and
- (b) the prescribed conditions are fulfilled.

(2) The prescribed conditions are—

- (a) that the authority have on a day in the year calculated an amount, under paragraph (3) below, which is equal to or less than 97% of the provisional amount for the authority for the year;
- (b) that the authority have notified the Secretary of State of the amount calculated under paragraph (3) below and of the day on which that amount was calculated; and
- (c) that the Secretary of State believes that the amount calculated by the authority under paragraph (3) below is likely to have been calculated in accordance with that paragraph and informs the authority of his belief.

(3) The amount calculated under this paragraph is the total of the amounts calculated in accordance with Parts I and II of Schedule 3 to these Regulations.

6. Where this regulation applies, for the purposes of paragraph 11 of Schedule 12 to the Act the provisional amount for the authority for the year is to be treated as being the amount resulting from the calculation under regulation 5(3) above by virtue of which this regulation applies.

### **Repayments as a result of a recalculation**

7.—(1) Where regulation 6 applies as regards an authority for a year, the Secretary of State shall repay to the authority at such time as he decides the amount calculated in accordance with paragraph (2) below.

(2) The amount is the difference between—

- (a) the total of the amounts paid by the authority to the Secretary of State, under paragraph 11(4) of Schedule 12 to the Act, on relevant days preceding the day on which the calculation referred to in regulation 6 was made; and
- (b) the amount calculated in accordance with the formula—

$$\frac{A}{B} \times C$$

where—

A is the amount being treated as the provisional amount for the authority under regulation 6;

B is the provisional amount having effect for the authority immediately prior to application of that regulation; and

C is the total of the amounts directed by the Secretary of State to be paid by the authority, under paragraph 11(4) of Schedule 12 to the Act, on relevant days preceding the day on which the calculation referred to in regulation 6 was made.

### **Reduced payments as a result of a recalculation**

8. Where regulation 6 applies as regards an authority for a year, the amount of an instalment directed by the Secretary of State to be paid by the authority, under paragraph 11(4) of Schedule 12 to the Act, on or after the day on which the calculation referred to in regulation 6 was made shall be treated as being the amount calculated in accordance with the formula—

$$\frac{A}{B} \times C$$

where—

A and B have the same meanings as in regulation 7; and

C is the amount the Secretary of State directed to be paid by the authority in the instalment.

### **Information which may be left out of account in making a calculation**

9. In making a calculation under paragraph 11(5)(a) of Schedule 12 to the Act, an authority may leave out of account any information which—

(a) it is not reasonably practicable for them to take into account; and

(b) was received by them after 31st May in the year immediately following that to which the calculation relates.

St Andrew's House,  
Edinburgh  
7th December 1992

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

## SCHEDULE 1

Regulation 3

## RULES FOR THE CALCULATION OF NON-DOMESTIC RATING CONTRIBUTIONS

1.—(1) In relation to each authority, there shall be calculated for the year commencing on 1st April 1993 and each subsequent year the amounts described in paragraphs 2 to 10 of this Schedule.

(2) From the amount described in paragraph 2 there shall be deducted the amounts described in paragraphs 3 to 8, and to that amount there shall be added the amounts described in paragraphs 9 and 10.

(3) The amount calculated under sub-paragraph (2) above shall be the authority's non-domestic rating contribution for the year.

**Gross amount due to the authority**

2. The amount which is the total of—

- (a) the amounts paid or payable to the authority in respect of non-domestic rates for the relevant year; and
- (b) the amounts paid or payable to the authority by way of a contribution in aid for the relevant year made in respect of lands and heritages which, but for any rule of law relating to Crown exemption, would be liable to non-domestic rates (including amounts paid or payable under section 20 of the 1956 Act);

without taking into account—

- (i) any apportionment carried out by the assessor under section 243A(1) of the 1947 Act<sup>(7)</sup>;
- (ii) any relief granted by the authority under section 244 of that Act; or
- (iii) any reduction or remission granted by the authority under section 4(5) of the 1962 Act<sup>(8)</sup>.

**Deductions from gross amount**

3. The amount which is the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any apportionment carried out by the assessor under section 243A(1) of the 1947 Act were taken into account.

4. The amount which is the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any relief granted by the authority under section 244 of the 1947 Act were taken into account.

5. The amount which is the difference between the amount calculated under paragraph 2 of this Schedule for the relevant year and the amount which would be so calculated if any reduction or remission granted by the authority under section 4(5) of the 1962 Act were taken into account.

6. The amounts which—

- (a) are payable to the authority in respect of non-domestic rates for the relevant year or a preceding year commencing after 31st March 1993;
- (b) in the opinion of the authority are bad debts which should be written off or are doubtful debts for which provision should be made; and

(7) Section 243A was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31), section 6.

(8) Section 4(5) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 5(1)(b).

- (c) have not been taken into account as amounts described in this paragraph in the calculation made under paragraph 11(5) of Schedule 12 to the Act for a preceding year.
7. The amounts which—
- (a) as amounts paid or payable to the authority in respect of non-domestic rates for a preceding year were taken into account by the authority in the calculation made under paragraph 11(5) of Schedule 12 to the Act for that year;
  - (b) have since been repaid or are now repayable by the authority; and
  - (c) have not been taken into account by the authority as amounts described in this paragraph in the calculation made for a preceding year under paragraph 11(5) of Schedule 12 to the Act.
8. The amounts which have been paid in the relevant year by the authority under the Non-Domestic Rating (Payment of Interest) (Scotland) Regulations 1992(9) as interest in respect of overpaid non-domestic rates.

**Additions to gross amount**

9. The amounts which—
- (a) have been taken into account by the authority as amounts described in paragraph 6 of this Schedule in the calculation made for a preceding year under paragraph 11(5) of Schedule 12 to the Act;
  - (b) have now been paid or are now payable to the authority; and
  - (c) have not been taken into account by the authority as amounts described in this paragraph in such a calculation.
10. The amounts which—
- (a) were amounts payable to the authority in respect of non-domestic rates for a preceding year or by way of such a contribution for that year as is described in sub-paragraph (b) of paragraph 2 of this Schedule;
  - (b) were not taken into account by the authority as amounts described in that paragraph in the calculation made for that year under paragraph 11(5) of Schedule 12 to that Act;
  - (c) have now been paid or are now payable to the authority; and
  - (d) have not been taken into account by the authority as amounts described in this paragraph in the calculation made for any preceding year under paragraph 11(5) of Schedule 12 to the Act.

SCHEDULE 2

Regulation 4

ASSUMPTIONS RELATING TO PROVISIONAL AMOUNTS

- 1.—(1) The assumptions prescribed in relation to paragraph 2 of Schedule 1 to these Regulations are the assumptions prescribed in paragraph 2 below.
- (2) The assumptions prescribed in relation to paragraphs 3, 4, 6, 7, 9 and 10 of that Schedule are the assumptions prescribed in paragraphs 3 to 5 below.

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(9) S.I.1992/2184.

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### Assumptions as to gross amount

2.—(1) It shall be assumed that the lands and heritages to be shown on the authority's valuation roll for each relevant day will be the lands and heritages shown on that roll on 31st December in the immediately preceding year.

(2) Subject to sub-paragraph (3) below, it shall be assumed that the rateable value of the lands and heritages described in sub-paragraph (1) above will on each relevant day be the rateable value shown for those lands and heritages on the authority's valuation roll on 31st December in the immediately preceding year.

(3) The assumption specified in sub-paragraph (2) above shall not apply in respect of such lands as, on 31st December in the immediately preceding year in question, have their rateable values for that year prescribed in or under an order made under section 6 of the 1975 Act(10).

(4) Subject to sub-paragraph (5) below, it shall be assumed that the occupier of lands and heritages on each relevant day will be the occupier on 31st December in the immediately preceding year.

(5) In respect of each day in the year commencing on 1st April 1993, it shall be assumed that—

(a) the occupier of any lands and heritages which—

(i) are occupied by a local authority on 31st December 1992 for, or in connection with, the purposes of a college of further education specified in Schedule 1 to the Transfer of Colleges of Further Education (Scotland) Order 1992(11); and

(ii) if owned by a local authority immediately before 1st April 1993, will fall to be transferred to the board of management of such a college of further education in terms of section 16 of the Further and Higher Education (Scotland) Act 1992(12);

will be that board of management; and

(b) any rate leviable in respect of those lands and heritages will, in terms of subsection (2) of section 4 of the 1962 Act(13), not exceed one-fifth of the rate which would be leviable apart from the provisions of that subsection.

(6) Where on 31st December in the immediately preceding year lands and heritages are unoccupied, it shall be assumed that they will remain unoccupied on each relevant day.

(7) It shall be assumed that the authority will not, in respect of any relevant day, exercise the discretion available to them under section 24(1) of the 1966 Act(14) to levy rates on lands and heritages in their area which are unoccupied.

(8) It shall be assumed that the total amount described in paragraph 2 of Schedule 1 to these Regulations is the amount calculated under that paragraph in accordance with the assumptions prescribed in sub-paragraphs (1) to (7) above, multiplied by 0.985.

### Assumptions as to deductions from and additions to gross amount

3. Where on 31st December in the immediately preceding year an apportioned value is being treated, in terms of section 243A(2) of the 1947 Act, as the rateable value of any lands and heritages, it shall be assumed for the purpose of calculating the amount described in paragraph 3 of Schedule 1

(10) Section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c. 4), section 1, and section 6(1) was subsequently substituted by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 11 and amended by the Local Government Finance Act 1992, Schedule 13, paragraph 42; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 6, paragraph 18.

(11) S.I. 1992/1597.

(12) 1992 c. 37.

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

(14) Section 24(1) was amended by the Local Government (Scotland) Act 1975, Schedule 6, Part II, paragraph 33(a).

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to these Regulations that that apportioned value will be so treated as the rateable value of those lands and heritages on each relevant day.

4. It shall be assumed that the amount described in paragraphs 4, 7, 9 and 10 of Schedule 1 to these Regulations will be nil.

5.—(1) It shall be assumed that the amounts described in paragraph 6 of Schedule 1 to these Regulations will be 1% of the amount described in sub-paragraph (2) below.

(2) The amount referred to in sub-paragraph (1) above is the amount described in paragraph 2 of Schedule 1 to these Regulations (calculated in accordance with the provisions of paragraph 2 of this Schedule), less the deductions from that amount prescribed in paragraphs 3 and 5 of Schedule 1 to these Regulations (calculated in accordance with the provisions of paragraph 3 of this Schedule).

## SCHEDULE 3

Regulation 5(3)

### RECALCULATION OF PROVISIONAL AMOUNTS

#### PART I

##### DAYS PRECEDING THE DAY OF THE CALCULATION

1.—(1) The amount calculated in accordance with this Part of this Schedule is an amount calculated, under regulation 3, as if it were a calculation under paragraph 11(5) of Schedule 12 to the Act of the authority's non-domestic rating contribution for the year.

(2) For the purposes of sub-paragraph (1) above, Schedule 1 to these Regulations shall have effect subject to the modification that references to the relevant year in that Schedule shall be treated as references to that part of the relevant year preceding the day on which the calculations in accordance with this Schedule are made.

#### PART II

##### DAYS ON AND AFTER THE DAY OF THE CALCULATION

2.—(1) The amount calculated in accordance with this Part of this Schedule is an amount calculated, under regulations 3 and 4, as if it were a calculation of the authority's non-domestic rating contribution for the year being made by them (rather than the Secretary of State) under paragraph 11(2) of Schedule 12 to the Act.

(2) For the purposes of sub-paragraph (1) above, Schedules 1 and 2 to these Regulations shall have effect subject to paragraph 3 of this Schedule.

3.—(1) The references in Schedule 1 to the relevant year shall be treated as references to that part of the relevant year after the day immediately preceding the day on which the calculations in accordance with this Schedule are made.

(2) The references in Schedule 2 to relevant days shall be treated as references to relevant days on and after the day on which the calculations in accordance with this Schedule are made.

(3) In paragraph 2 of Schedule 2—

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- (a) the references to 31st December in the immediately preceding year shall be treated as references to the day on which the calculations in accordance with this Schedule are made; and
  - (b) sub-paragraph (3) shall be disregarded.
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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Under Part III of Schedule 12 to the Local Government Finance Act 1992, Scottish levying authorities are required to pay amounts (called non-domestic rating contributions) to the Secretary of State. Payments in respect of a provisional amount of the contributions are made during the financial year, final calculations and payments being made after the year ends. These Regulations contain rules for the calculation of those contributions.

Regulation 3 and Schedule 1 provide for the calculation of a final non-domestic rating contribution which is broadly the same as the total payable to the levying authority for a financial year in respect of non-domestic rates and contributions in aid in relation to Crown property. Provision is included in Schedule 1 for deductions in respect of reliefs and remissions granted on grounds of poverty or to charitable bodies and in respect of matters such as bad debts and repayments to ratepayers.

Regulation 4 and Schedule 2 provide for the assumptions which are to be made when calculating the provisional amount.

Regulations 5 and 6 provide that, where prescribed conditions are fulfilled, the amount calculated under regulation 4 will be replaced by an amount calculated under Schedule 3. These provisions will operate where the amounts expected to be received by the levying authority in respect of non-domestic rates have been substantially reduced during the financial year.

Regulations 7 and 8 provide that, where a provisional amount has been recalculated under regulations 5 and 6, repayments will be made to the levying authority and further amounts payable by the authority will be reduced.

Regulation 9 allows an authority, when calculating its final non-domestic rating contribution for a financial year, to leave out of account information which was received after 31st May in the following financial year and which it is not reasonably practicable for them to take into account.