

2002 No. 91

RATING AND VALUATION

**The Non-Domestic Rates (Levy) (Scotland) Regulations
2002**

<i>Made</i>	<i>5th March 2002</i>
<i>Laid before the Scottish Parliament</i>	<i>7th March 2002</i>
<i>Coming into force</i>	<i>1st April 2002</i>

ARRANGEMENT OF REGULATIONS

PART I

INTRODUCTORY

1. Citation and commencement.
2. Interpretation – general.
3. Interpretation – mergers.
4. Interpretation – splits.
5. Interpretation – reorganisations.

PART II

LANDS AND HERITAGES ON ROLL ON 1ST APRIL 2002

6. Application of Part II.
7. Amount payable as rates.
8. Notional liability.
9. Changes in rateable value after 1st April 2002.
10. Reduction in rateable value on 1st April 2002.

PART III

MERGERS, SPLITS AND REORGANISATIONS AFTER 31ST MARCH 2002

11. Application of Part III.
12. Mergers and reorganisations – amount payable as rates.
13. Splits – amount payable as rates.

14. Changes in rateable value.

PART IV

LANDS AND HERITAGES WITH RATEABLE VALUE OF £10,000 OR LESS

15. Amount payable as rates.

PART V

REDUCTIONS, REMISSIONS AND EXEMPTIONS

16. Charitable and other reductions.
17. Partially unoccupied lands and heritages.
18. Exemptions and discretionary reductions and remissions.

PART VI

REVOCATION

19. Revocation.

The Scottish Ministers, in exercise of the powers conferred 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 (Levyng) (Scotland) Regulations 2002 and shall come into force on 1st April 2002.

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 1992 Act” means the Local Government Finance Act 1992(e);
“the 1997 Act” means the Local Government and Rating Act 1997(f);
“the 2000 Regulations” means the Non-Domestic Rates (Levyng) (Scotland) Regulations 2000(g);
“the 2001 Regulations” means the Non-Domestic Rates (Levyng) (Scotland) Regulations 2001(h);

(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) 1992 c.14.

(f) 1997 c.29.

(g) S.S.I. 2000/92.

(h) S.S.I. 2001/71.

“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;

“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 2002;

“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
- (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.

(a) Section 7B was inserted by the Local Government Finance Act 1992 (c.14) Act, section 110(2) and was amended by the Local Government etc. (Scotland) Act 1994 (c.39) (“the 1994 Act”), Schedule 13, paragraph 100(4).

(b) Section 1 was repealed in part by the Local Government and Rating Act 1997 (c.29), Schedule 4.

PART II
LANDS AND HERITAGES ON ROLL ON 1ST APRIL 2002

Application of Part II

6.—(1) Subject to paragraph (2) below, this Part applies to lands and heritages which are shown in the roll on 1st April 2002 if either—

- (a) regulation 7 of the 2001 Regulations; or
- (b) Part III of those Regulations,

applies to them as regards 31st March 2002, and they are not shown in a merged, split or reorganised entry taking effect on 1st April 2002.

(2) This Part shall cease, as from the date of any merged, split or reorganised entry taking effect subsequent to 1st April 2002, to apply to the lands and heritages shown in that entry.

Amount payable as rates

7. The amount payable as rates in respect of any lands and heritages to which this Part applies and any day in the relevant year shall, subject to regulations 9 and 10 below, be calculated in accordance with the formula—

$$\text{ARP} = \text{NL} + (0.678 \times \text{BTA})$$

where—

ARP is the amount of rates payable;
NL is the notional liability calculated in accordance with regulation 8 below; and
BTA is the base transitional adjustment, being—
the amount payable as rates in respect of those lands and heritages and 31st March 2002, less the notional liability in respect of those lands and heritages and 31st March 2002 calculated in accordance with the formula contained in regulation 8 of the 2001 Regulations.

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—

$$\frac{RV \times APF}{365}$$

where—

RV is the rateable value for those lands and heritages on that day; and
APF is the appropriate poundage figure, being—
(a) 0.458, where those lands and heritages have a rateable value of £10,000 or less on 1st April 2002; and
(b) 0.478, in any other case.

Changes in rateable value after 1st April 2002

9.—(1) Where, subsequent to 1st April 2002, 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 ARP shall not be payable but shall, as regards days in that year on and after that effective day, be calculated in accordance with the formula—

$$\text{ARP} + \frac{(\text{IRV} - \text{RV}) \times \text{PF}}{365}$$

where–

ARP has the same meaning as in regulation 7 above;
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, being–
(a) 0.458, where the increased rateable value of the lands and heritages is £10,000 or less; and
(b) 0.478, in any other case.

(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 2002, 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 ARP shall not be payable but shall, as regards days in that year on and after that effective day, be calculated in accordance with the formula–

$$\frac{ARP \times RRV}{RV}$$

where–

ARP and RV have the same meanings as in paragraph (1) above; and
RRV is the reduced rateable value of those lands and heritages.

Reduction in rateable value on 1st April 2002

10. Where the rateable value of lands and heritages to which this Part applies is reduced on 1st April 2002, as a result of–

- (a) a material change of circumstances (within the meaning of section 37(1) of the 1975 Act); or
- (b) the assessor amending or adding an apportionment note under paragraph 2 of Schedule 5 to the 1992 Act,

the ARP shall not be payable but shall be calculated in accordance with the formula–

$$ARP = NL + (0.678 \times BTA \times [RV/PRV])$$

where–

ARP, NL and BTA have the same meanings as in regulation 7 above;
RV is the rateable value of those lands and heritages on 1st April 2002; and
PRV is the rateable value of those lands and heritages on 31st March 2002.

(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) Act 1987 (c.47), Schedule 6, and by the 1994 Act, Schedule 13, paragraph 100(8).

PART III

MERGERS, SPLITS AND REORGANISATIONS AFTER 31ST MARCH 2002

Application of Part III

11.—(1) Where, subsequent to 31st March 2002, 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) regulation 7 of the 2001 Regulations;
 - (ii) Part III of those Regulations;
 - (iii) regulation 7 above; or
 - (iv) this Part,applied as regards the day immediately prior to the effective date of that entry;
 - (b) in a split entry, if none of the provisions referred to in sub-paragraph (a) above 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

12.—(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 14 and Part V below, be calculated in accordance with the formula—

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

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 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 Part V 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 Part V below); and
 - (c) in any other case, the amount calculated in accordance with the formula—

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

where—

- RV is the rateable value shown in the old entry; and
- PF has the same meaning as in regulation 9(1) above.

Splits – amount payable as rates

13. 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 14 and Part V below, be calculated in accordance with the formula–

$$AD \times \frac{RV}{ORV}$$

where–

- AD is the amount determined under regulation 7 above, or as the case may be this Part (before application of Part V 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

14.—(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 2002, 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 Part V below, be calculated in accordance with the formula–

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

where–

- AD is the amount determined under regulation 12(1) or 13 above (before application of Part V 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 9(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 Part V below, be calculated in accordance with the formula–

$$AD \times \frac{RRV}{RV}$$

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 12(1) or 13 above” of the words “this paragraph or paragraph (2) below”.

PART IV

LANDS AND HERITAGES WITH RATEABLE VALUE OF £10,000 OR LESS

Amount payable as rates

- 15.—**(1) This regulation applies to lands and heritages on a day in the relevant year when—
- (a) they have a rateable value of £10,000 or less; and
 - (b) they are not lands and heritages—
 - (i) to which Part II or III above applies; or
 - (ii) which have their rateable value prescribed in an order made under section 6 of the 1975 Act.

(2) The amount payable as rates in respect of lands and heritages and a day on which this regulation applies to them shall, subject to Part V below, be calculated in accordance with the formula—

$$\frac{RV \times 0.458}{365}$$

where—

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

PART V

REDUCTIONS, REMISSIONS AND EXEMPTIONS

Charitable and other reductions

16.—(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(a);
 - (ii) section 24(3) of the 1966 Act(b);
 - (iii) the Rating (Disabled Persons) Act 1978(c); and
 - (iv) paragraph 3 of Schedule 2 to the 1997 Act;
- (b) regulation 7 or Part III or IV above has effect as regards those lands and heritages and that day; and
- (c) regulation 17 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 or IV 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 or IV above has effect.

Partially unoccupied lands and heritages

17.—(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(d); and

(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 1994 Act, section 154.

(c) 1978 c.40.

(d) Section 24A was inserted by the 1994 Act, section 155.

(b) regulation 7 or Part III or IV 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 or Part III or IV 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
- 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 16 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 or IV above, as the case may be,” in that paragraph there were substituted the words “regulation 17(2) below”.

Exemptions and discretionary reductions and remissions

18. 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.

PART VI

REVOCATION

Revocation

19.—(1) Subject to paragraph (2) below, the 2001 Regulations are hereby revoked.

(a) Section 4(5) was amended by the Local Government and Planning (Scotland) Act 1982, section 5(1)(b), the 1994 Act, Schedule 13, paragraph 57 and the Local Government and Rating Act 1997, Schedule 3, paragraph 2(a).

(b) Section 25A was inserted by the 1994 Act, section 156.

(2) Nothing in paragraph (1) above shall affect the continuing operation of the 2001 Regulations as regards any day prior to 1st April 2002.

St Andrew's House,
Edinburgh
5th March 2002

ANDREW P KERR
A member of the Scottish Executive

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 property in Scotland. They apply only to financial year 2002-2003 (“the relevant year”).

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

Part II deals with amounts payable in respect of property which is shown in the valuation roll as at 1st April 2002. The Part only applies where certain provisions of the Non-Domestic Rates (Levy) (Scotland) Regulations 2001 (“the 2001 Regulations”) apply to the property as regards 31st March 2002. The Part ceases to apply to property if and when it becomes the subject of a merged, split or reorganised entry in the valuation roll taking effect during the relevant year (regulation 6). The amount payable as rates is calculated in accordance with regulation 7. For every day of the relevant year, the notional rates liability for a property (essentially, the full amount ordinarily payable as rates) (regulation 8) must be compared against the amount payable as rates for that property. Regulation 9 specifies how the amount of rates payable are to be recalculated in cases where the rateable value of property changes during the relevant year. Regulation 10 specifies how the amount of rates payable are to be recalculated in cases where the rateable value of the property is reduced on 1st April 2002.

Part III makes provision for the situation where property 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 the 2001 Regulations or under these 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 11). 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 property affected by the new entry (regulations 12 and 13). Regulation 14 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 properties with a rateable value of £10,000 or less which are not otherwise covered by those Regulations. Rates will be payable in respect of such properties as if the rates poundage applicable was 45.8p rather than the actual 2002/2003 poundage (47.8p) (regulation 15).

Part V deals with reductions, remissions and exemptions. Regulations 16 and 17 provide for reductions under other enactments to apply in cases where the amount payable is determined under Part II, III or IV 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 18).

Part VI revokes the 2001 Regulations.

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The Non-Domestic Rates (Levy) (Scotland) Regulations
2002

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