

1971 No. 561

RATING AND VALUATION

The Docks and Harbours (Valuation) Order 1971

<i>Made</i> -	<i>4th March 1971</i>
<i>Laid before Parliament</i>	<i>4th March 1971</i>
<i>Coming into Operation</i>	<i>30th March 1971</i>

The Secretary of State for the Environment, after consultation with the associations of local authorities and of persons carrying on undertakings appearing to him to be concerned and the local authorities and persons carrying on undertakings with whom consultation appeared to him to be desirable, in exercise of his powers under section 35 of the General Rate Act 1967(a) and of all other powers enabling him in that behalf, hereby makes the following order :—

Title and commencement

1. This order may be cited as the Docks and Harbours (Valuation) Order 1971 and shall come into operation on the day following the day on which it has been approved by a resolution of each House of Parliament.

Application

2.—(1) Subject to paragraphs (2) and (3), this order shall apply, in respect of the rate periods beginning on 1st April 1971 and subsequent rate periods, to any hereditament which comprises (wholly or partly) a dock or harbour undertaking and is occupied by the persons carrying on such undertaking under authority conferred by or under any enactment.

(2) This order shall not apply—

- (a) where the relevant receipts of the dock or harbour undertaking in the year comprising the rate period are not more than £1,500 ;
- (b) where the persons carrying on the dock or harbour undertaking use the dock or harbour exclusively or mainly for ships resorting thereto solely or mainly for the purpose of bringing or receiving goods of any one or more of the following descriptions, that is to say—
 - (i) goods which have been manufactured or produced by the persons carrying on the dock or harbour undertaking ;
 - (ii) goods which are to be used by those persons for the manufacture or production of goods or electricity ;
 - (iii) goods which are to be sold by such persons,

but for this purpose there shall be treated as carried on by the persons carrying on the dock or harbour undertaking the activities of manufacture, production or sale carried on by those persons' associated bodies corporate.

For the purposes of sub-paragraph (b) a body corporate shall be treated as the associated body corporate of any persons who directly or indirectly own or control not less than 51% of its issued share capital, and of any body corporate of which it or its associated body corporate directly or indirectly own or control not less than 51% of the issued share capital.

(3) Except in so far as resulting from the definition of "relevant receipts", this order shall not apply to premises occupied by the persons carrying on a dock or harbour undertaking which are not on operational land of such persons.

In this paragraph, "operational land", in relation to any persons carrying on a dock or harbour undertaking, means land which is used for the purpose of the carrying on of the undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purpose of the carrying on of statutory undertakings within the meaning of the Town and Country Planning Act 1962(a). Any question as to whether, for the purposes of this definition, any premises are situated on operational land of the persons carrying on the dock or harbour undertaking shall be determined by the Secretary of State.

Interpretation

3.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

"the Commissioners" means the Commissioners of Inland Revenue ;

"relevant receipts", in relation to any dock or harbour undertaking, means all receipts, other than receipts in respect of cargo handling, by way of revenue (including the rents of parts of the dock or harbour let notwithstanding that such parts as let are separately rated) included or to be included in the accounts of the undertaking, whether derived from the operations carried on under the authority referred to in article 2(1) or otherwise, and includes such receipts from all ancillary land and buildings occupied by the persons carrying on the undertaking in connection with the dock or harbour ;

"the Secretary of State" means the Secretary of State for the Environment ; and

"year" means a period of twelve months beginning with 1st April.

In the application of the definition of "relevant receipts", receipts in respect of cargo handling shall be taken to be—

(a) in the case of an undertaking to which the Statutory Harbour Undertakings (Form of Accounts etc.) (Local Authorities) Regulations 1969(c) apply, the revenue from cargo handling indicated separately in the revenue account under paragraph 13(1)(a) of Schedule 2 to the said Regulations ;

(b) in the case of an undertaking to which the Statutory Harbour Undertakings (Form of Accounts etc.) (Companies) Regulations 1969(d) apply, the revenue from cargo handling indicated separately in the profit and loss account under paragraph 2(a) of Schedule 2 to the said Regulations ; and

(a) 1962 c. 38. (b) 1889 c. 63.
(d) S.I. 1969/1297 (1969 III, p. 3873).

(c) S.I. 1969/1296 (1969 III, p. 3860).

(c) in any other case, the revenue from cargo handling indicated separately in the revenue account under paragraph 15(1)(a) of Schedule 2 to the Statutory Harbour Undertakings (Form of Accounts etc.) (General) Regulations 1969(a) or which would have been so indicated if those Regulations had applied to the undertaking.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment or by this order.

(4) Any reference in this order to a numbered article shall, unless the reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(5) Any reference in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

Rateable value

4. Subject to articles 8 and 9, for any year, the rateable value of any hereditament to which this order applies shall—

(a) where the dock or harbour undertaking is wholly comprised in one hereditament, be 4% of the relevant receipts of the dock or harbour undertaking in the year ;

(b) where the dock or harbour undertaking extends to two or more hereditaments, be the portion of 4% of the relevant receipts of the dock or harbour undertaking allocated to the hereditament under article 5(2).

5.—(1) In respect of any hereditament or hereditaments to which this order applies, it shall be the duty of the persons last carrying on the dock or harbour undertaking in any year, within six months following the end of the year, to furnish to the Commissioners and to the rating authority or authorities concerned a certified statement of the relevant receipts in the year, taking, where necessary, proportionate fractions of such receipts included or to be included in the accounts for periods ending in the year and estimates of such receipts for portions of the year not covered by such accounts.

(2) Within two months of the receipt by them of the certificate in respect of any year the Commissioners shall calculate the rateable value of the hereditament or hereditaments. Where the dock or harbour undertaking extends into two or more hereditaments the 4% of the relevant receipts shall be apportioned among the hereditaments in such manner as may be agreed by the Commissioners with the persons carrying on the undertaking and the rating authorities concerned, or in default of agreement determined by the Secretary of State.

(3) On the calculation of the rateable value of any hereditament for any year the Commissioners shall notify the amount of that rateable value to the persons carrying on the dock or harbour undertaking and to the rating authority, and the valuation officer shall cause such alterations (if any) to be made in the valuation list as may be requisite for showing such rateable value ; and—

(a) such alterations shall be treated as having been made at the beginning of such year ; and

(b) the hereditament shall be deemed to have been occupied throughout the whole of such year by the persons last carrying on the dock or harbour undertaking in such year.

6. The duty imposed on the persons carrying on any undertaking by article 5(1) shall be enforceable by mandamus at the instance of any rating authority concerned or of the Commissioners; and the duties imposed on the Commissioners and the valuation officer by article 5(2) and (3) shall be enforceable by mandamus at the instance of any such rating authority or of the persons aforesaid.

7. No proposals shall be made for the alteration of the rateable value of a hereditament to which this order applies.

Transitional provision

8.—(1) In respect of any hereditament or hereditaments to which this order applies, it shall be the duty of the persons carrying on the dock or harbour undertaking, not later than 30th April 1972, to furnish to the Commissioners and to the rating authority or authorities concerned a certified statement of the relevant receipts in the year beginning on 1st April 1970.

(2) The Commissioners shall forthwith calculate the amount being 4% of such relevant receipts. For any dock or harbour undertaking the amount so calculated is hereinafter referred to as "N".

(3) In respect of any dock or harbour undertaking for which N is so calculated the Commissioners shall also ascertain the rateable value of the hereditament, or the aggregate of the rateable values of the hereditaments, comprising the undertaking as shown in the valuation list or lists on 1st October 1970, or if any alteration of any list has then been made in consequence of any proposal in respect of any such hereditament made before 1st October 1970 as shown in the list as so altered. For any dock or harbour undertaking the amount so ascertained is hereinafter referred to as "A".

(4) If in respect of any dock or harbour undertaking N exceeds A by one-fifth or more of N, articles 4 to 7 shall have effect, in respect of any year, with the substitution for any reference to 4% of the relevant receipts of a reference to—

(a) 4% of the relevant receipts; or

(b) the sum of—

(i) the rateable value of the hereditament, or the aggregate rateable values of the hereditaments, comprising the undertaking for the preceding year;

(ii) one-fifth of N; and

(iii) if the relevant receipts for the year exceed the relevant receipts for the preceding year, 4% of the excess,

whichever is the less.

(5) If in respect of any dock or harbour undertaking N is less than A by one-fifth or more of A, articles 4 to 7 shall have effect, in respect of any year, with the substitution for any reference to 4% of the relevant receipts of a reference to—

(a) 4% of the relevant receipts of the dock or harbour undertaking; or

(b) the rateable value of the hereditament, or the aggregate of the rateable values of the hereditaments, comprising the undertaking for the preceding year ; less the sum of—

(i) one-fifth of A ; and

(ii) if the relevant receipts for the preceding year exceed the relevant receipts for the year, 4% of the excess.

whichever is the greater.

(6) If this article has no effect in respect of any hereditament or hereditaments in relation to any year, it shall have no effect in respect of such hereditament or hereditaments in relation to any subsequent year.

9. Where a dock or harbour undertaking comes into existence as the result of the division of a former undertaking, or of the amalgamation of two or more former undertakings, or of any combination of such divisions or amalgamations, and article 8(4) or (5) applied to the former undertaking or any of the former undertakings, that article may be applied to the first-mentioned undertaking in such manner as may be agreed by the Commissioners with the persons carrying on the undertaking and the rating authority or authorities concerned or in default of agreement determined by the Secretary of State.

Revocation

10. The Docks and Harbours (Valuation) Order 1970(a) is hereby revoked except in so far as it applies to the year beginning on 1st April 1970.

Peter Walker,

Secretary of State for the Environment.

4th March 1971.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Section 35 of the General Rate Act 1967 empowers the Secretary of State for the Environment to make provision for determining the rateable values of hereditaments occupied by persons carrying on, under authority conferred by or under any enactment, dock or harbour undertakings, or of any class of such hereditaments.

This Order makes provision, operative from 1st April 1971, in respect of such hereditaments except in the cases set out in paragraphs (2) and (3) of article 2.

The rateable value for any year is to be 4% of the relevant receipts, as defined in article 3(2), in the year.

The Order contains (in article 8) provision to ease the transition to the new assessments where these differ substantially from the existing ones.

In accordance with section 35(7) of the General Rate Act 1967, this Order was approved by a resolution of the House of Lords on 22nd March 1971 and a resolution of the House of Commons on 29th March 1971.

(a) S.I. 1970/503 (1970 I, p. 1706).