
STATUTORY INSTRUMENTS

1992 No. 58

**The Ports Act 1991 (Levy on
Disposals of Land, etc.) Order 1992**

LEASES

Operational leases

25.—(1) Subject to paragraph (2) below, where a disposal of relevant land or a relevant interest in land is constituted by the granting of a lease—

- (a) out of relevant land all or part of which is operational land of a member of the chargeable company's group; or
- (b) out of a relevant interest in land and all or part of the land in which the interest subsists is operational land of a member of the chargeable company's group;

then—

- (i) if the relevant land or the land in which the relevant interest subsists consists wholly of operational land, the disposal shall, subject to sub-paragraph (i) of paragraph (2) below, be disregarded for all purposes of this Order except those of paragraph 11 of Schedule 3;
- (ii) if the relevant land or the land in which the relevant interest subsists consists only in part of operational land, then, subject to sub-paragraph (ii) of paragraph (2) below the disposal shall, to the extent that the land in question consists of operational land, be disregarded for all purposes of this Order except those of paragraph 11 of Schedule 3.

(2) If at any time which is both—

- (a) within the levy period; and
- (b) during the term of a lease referred to in paragraph (1) above;

the operational land is used for a purpose other than an operational purpose, the n—

- (i) if the relevant land or the land in which the relevant interest subsists consists wholly of operational land, the disposal shall no longer be disregarded pursuant to sub-paragraph (i) of the said paragraph (1), the disposal shall be regarded as taking place at that time for a term equal to the portion then unexpired of the actual term of the lease, and the amount of any gain accruing on the disposal shall be computed accordingly; and
- (ii) if the relevant land or the land in which the relevant interest subsists consists only in part of operational land, the disposal shall no longer, to the extent mentioned in sub-paragraph (ii) of the said paragraph (1), be disregarded pursuant to that sub-paragraph, the disposal shall to the extent that it relates to the operational land which has been used for a purpose other than an operational purpose be regarded as taking place at that time for a term equal to the portion then unexpired of the actual term of the lease, and the amount of any gain shall be recomputed accordingly.

(3) If by virtue of paragraph (2) above a gain accruing on a disposal falls to be computed or (as the case may be) recomputed, the following amount, that is to say—

- (a) in a case to which sub-paragraph (i) of the said paragraph (2) refers, the levy chargeable on the gain; or

- (b) in a case to which sub-paragraph (ii) of the said paragraph (2) refers, the amount by which the levy chargeable on the gain as recomputed exceeds the amount of any levy already payable or paid on the disposal,

shall be payable within the period beginning with the date on which the operational land is first used for a purpose other than an operational purpose and ending with the next following quarter date.

(4) In this article “operational land” means land which during the period of six months immediately preceding the beginning of the levy period was used wholly (or substantially) and exclusively (or predominantly) for an operational purpose.

(5) Subject to paragraph (6) below land is for the purposes of this Order used for an operational purpose if it is used—

- (a) for the purposes of shipping; or
- (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by any railway forming part of the dock, harbour or pier undertaking which a member of the chargeable company’s group is authorised by enactment to carry on or which, as regards the six months immediately preceding the beginning of the levy period, the relevant port authority whose property, rights, liabilities and functions are under section 2 of the 1991 Act transferred to that company were so authorised to carry on.

(6) Land shall not be regarded as used for an operational purpose if it is used—

- (a) for the construction or erection of a hotel or of a bridge or other building not required in connection with the handling of traffic; or
- (b) for the construction or erection otherwise than wholly within the limits of a dock, pier or harbour of—
 - (i) an educational building; or
 - (ii) a car park, shop, restaurant, garage, petrol filling station or other building provided under transport legislation;

and in paragraph (ii) above “transport legislation” means any statutory provision empowering a member of the chargeable company’s group or, as regards the six months mentioned in paragraph (5) (b) above, the relevant port authority to provide, in places where persons using the services and facilities provided by that member or authority may require the m, amenities or facilities for those and other persons.